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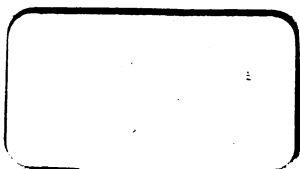
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NATIONAL AND INTERNATIONAL

WITH

SOME REMARKS ON THE POSITION

OF

AUTHORS AND PUBLISHERS

BY

A PUBLISHER

**ALSO, AN APPENDIX INCLUDING THE TEXT OF "THE INTERNATIONAL AND
COLONIAL COPYRIGHT ACT, 1886; "**

**AND OF "A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO
" COPYRIGHT" (NOW BEFORE PARLIAMENT, 1887);**

ALSO, THE ARTICLES OF "THE INTERNATIONAL COPYRIGHT UNION"

&c., &c.

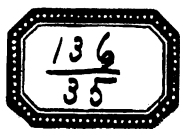
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1887

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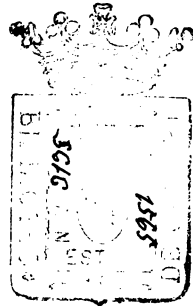
OF

AUTHORS AND PUBLISHERS

BY

A PUBLISHER

E. Marston



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SAMPSON LOW, MARSTON, SEARLE, & RIVINGTON

CROWN BUILDINGS, 188 FLEET STREET

1887

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LONDON :
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STAMFORD STREET AND CHARING CROSS.

NOTE.

THIS pamphlet, written by a publisher, has no pretension whatever to be regarded as representing the views of all publishers, or of any other publisher than the writer. Nor has the writer the vanity to consider himself "an author" because he has written and compiled these few pages. The word *author*, it is true, has, popularly, a comprehensive significance, but he has too much regard for real authorship to obtrude himself upon authors and the public in any other capacity than that of a publisher taking note of matters connected with copyright, authors, and publishers, as they present themselves from his point of view.

A careful perusal of the most valuable and lucid Report of the Commissioners induced the writer, in 1879, to give a sketch, brief or otherwise, of all the subjects treated of in the Report. Nothing can be more admirable than the way in which this Report steers its even course between Scylla and Charybdis—having to regard on the one hand the true interests of authors and copyright owners, and on the other the shoals and quicksands which surround the oftentimes imaginary interests of the public.

A large proportion of that sketch has been retained in the present pamphlet, but altered, modified, or excised, as lapse of time has made necessary. For his own convenience, and for convenience of reference, the new matter which has now been added has been set in *Italic type*.

The chief interest in the Commissioners' Report, on which this sketch was originally founded, now lies in the fact that it formed the basis of a Bill presented by Lord John Manners in 1880, but which fell to the ground. That Bill again has been partly incorporated in a Bill now before Parliament, drawn up by the combined efforts of "The Incorporated Society of Authors," and the "Copyright Association," the latter being largely represented by publishers.

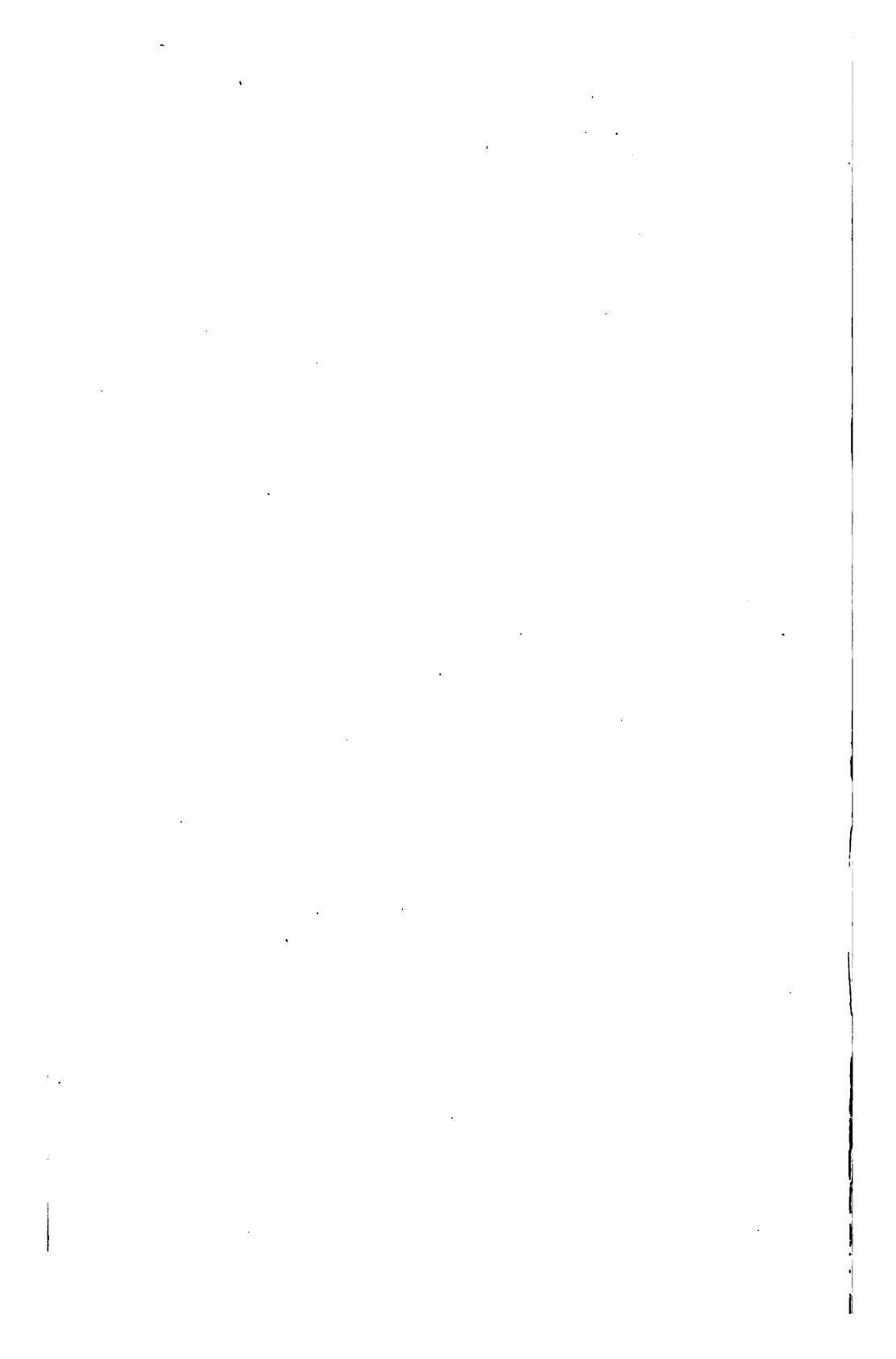
The question of considerable interest to publishers, as to the right of the British Museum to claim non-copyright books, and the still more burning one recently agitated between AUTHORS AND PUBLISHERS, are considered, it is hoped, with impartiality, and several items of practical usefulness in the existing law of copyright have been added, chiefly from the admirable Digest prepared by Sir James Stephen for "The Report of the Commissioners."

In the Appendix will be found the Text of the International and Colonial Act of 1886, "The Articles of the International Copyright Union," and the "Bill to consolidate and amend the Law relating to Copyright" now before Parliament.

If there is any value whatever in the following remarks, it is derived from the fact that they are the outcome of the practical experience of a publisher, in the various departments of the copyright question with which his own interests are, as Sir Louis Mallet says, so "inextricably intertwined;" remarks for the most part in accordance with the Commissioners' Report, but sometimes opposed to them from a publisher's standpoint.

E. M.

LONDON, April, 1887.



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COPYRIGHT.

"This is the very coinage of your brain."—*Hamlet*.

DR. SAMUEL JOHNSON defines this word as "property of an author in a literary work;" other lexicographers give it the same definition, with the words added, "for a limited term of years;" and Worcester says it is "a right given by law," as though he questioned the wisdom of the law. Dr. Johnson, elsewhere descanting on the subject of literary property, qualifies the above definition. He says—

"There seems to be in authors a stronger right of property than that by occupancy: a metaphysical right, a right as it were of creation, which should from its nature be perpetual; but the consent of nations is against it; for were it to be perpetual, no book, however useful, could be universally diffused amongst mankind, should the proprietor take it into his head to restrain its circulation. No book could have the advantage of being edited with notes, however necessary to its elucidation, should the proprietor perversely oppose it. For the general good of the world, therefore, whatever valuable book has once been created by an author, and issued out by him, should be understood as no longer in his power, but as belonging to the public; at the same time the author is entitled to an adequate reward. This he should have by an exclusive right to his work for a considerable number of years."—*Boswell's Life of Johnson*.

This view of copyright, by an author of no mean repute, coupled with a liberal concession to "the general good of the world," seems to be the one taken of copyright by all countries which have yet afforded it protection. It is a view, however, which has always found powerful opponents: on the one hand, by those who maintain that copyright should be perpetual; and on the other hand, by those who from the days of Lord Camden, a hundred years ago, down to Sir T. H. Farrer, Sir Louis Mallet, and others of the present day, maintain that no property can exist in uttered thought.

The first great copyright trial was that of *Millar v. Taylor*,

which involved the proprietorship of the assigns of the poet Thomson in his own poems.* The next case was that of *Donaldson v. Becket*,† and it was in this discussion that Lord Camden delivered his famous argument against copyright.

"If there be anything in the world," says Lord Camden, "common to all mankind, science and learning are in their nature *publici juris*, and they ought to be as free and general as air and water. . . . Those great men, those favoured mortals, those sublime spirits who share that ray of divinity which we call genius, are entrusted by Providence with the delegated power of imparting to their fellow-creatures that instruction which Heaven meant for universal benefit; they must not be niggard to the world, or hoard up for themselves the common stock. . . . Knowledge to be enjoyed must be communicated. Glory is the reward of science, and those who deserve it scorn all meaner views. I speak not of the scribblers for bread, who tease the press with their wretched productions: fourteen years is too long a privilege for their perishable trash. It was not for gain that Bacon, Newton, Milton, Locke, instructed and delighted the world; it would be unworthy such men to traffic with a *dirty bookseller*——"

I pause at this climax, as it comes specially home to a publisher, to say that, brilliant as is Lord Camden's invective, his facts are not unimpeachable. In the days when copyright had no other protection than that of Common Law, Milton did "con- descend to traffic" with a bookseller, whether "dirty" or not. He did not sell the copyright of 'Paradise Lost' for £5 as is commonly supposed. On the contrary, he retained his copy- right in his own hands, selling to Simmons (or Symons, a printer of Aldersgate Street,) the right to print 1300 copies; £5 to be paid down immediately, and another £5 when that number was sold. These 1300 of the first 4to edition were issued in *nine* different impressions (varying in small parti- culars) between 1667 and 1669. He had a like sum for the second edition, which was in 8vo, and which was not called for till 1674 (seven years after the first was printed), and he did

* The copyright by the statute had expired. The issue raised was, whether a right of property therein was still given by the Common Law. Lord Mansfield decided in favour of the plaintiff, thus confirming this right.

† In this case Lord Mansfield's decision was reversed, and it was affirmed that Common Law Copyright was taken away by the statute of Anne.

not live to receive his third "miserable pittance." The third edition was published in 1678.* Milton died on the 8th of November, 1679, and his widow agreed with Simmons to receive £8 for her right, for which she gave him a general release on the 29th of April, 1681. The "miserable pittance" which Milton received for this great work has generally been regarded as a reproach to his publisher, *and has been repeatedly quoted as such in the recent somewhat heated discussions raised by "The Society of Authors" on the subject of "Authors and Publishers;"* it should rather be regarded as a reproach to the indiscriminating public of that age which could only purchase three small editions in fourteen years. As a proof that Simmons did not attach any great value to his acquisition, he seems to have eventually sold his right for £25 to Brabazon Aylmer, from whom Jacob Tonson purchased a half-interest, and issued the folio edition of 1688 with a portrait.

At all events, it would seem from the facts stated that Milton was, as Mr. Curtis says (in his work on Copyright), "careful to assert his full right of property, as he and others understood it at that time, and to make it available to his family. . . . As such rights were estimated then, and considering that the poem gained slowly upon the attention of his own age, the price he received was not grossly inadequate."

Dr. Johnson says that "the nation was satisfied with two editions of Shakespeare's Plays from 1623 to 1664 which probably could not amount to 1000 copies."

"Il divino Tiziano" did not paint his altar-pieces, nor the divine Raphael his Madonnas, for the simple love of fame—they got as much money as they could; nor did the heavenly-gifted Mozart ever give his sonatas to his music publishers without "consideration." Yet he died in poverty. Among "scribblers for bread" have been numbered the greatest names in literature. These Lord Camden and his followers would scorn; but when success has crowned the efforts of a Tennyson or a Turner, then fame is to be his only reward! Poor poet! poor painter!

* As a literary curiosity I have given (Appendix V.) a copy of the *original agreement* between John Milton, Gent., and Samuel Symons, Printer, which substantially confirms the above statement.

Addison's opinion on infringers of the rights of authors will be found in these words:—

“A set of wretches we authors call pirates who print any book, poem, or sermon as soon as it appears in the world in a smaller volume, and sell it, as all other thieves do stolen goods, at a cheaper rate.”—*Tatler*.

COPYRIGHT under the common law seems in those days to have been regarded as perpetual, for Milton's great Epic was protected by injunction by Lord Hardwicke in 1739, in favour of the right which Tonson had acquired in 1683, and seventy-two years after the first assignment by Milton.*

In all I have to say on the subject I shall assume that copyright is PROPERTY, if not in perpetuity, at least in the limited sense which Johnson has conceded, and which the Statute Law has adopted; for I cannot conceive it to be necessary to dive into the question of the origin of property, as Sir Louis Mallet does, in order to prove that copyright “rests upon a radical economic fallacy, viz. a misconception of the nature of the law of value;” nor will I pretend to contest the assertion of Sir T. H. Farrer, that “words, thoughts and actions, when uttered or done, pass as a general rule into the common domain, and it is thus that human life is carried on.” It has generally been conceded that however much *ideas* may be common property, the man who by his genius (a “ray of divinity,” as Lord Camden calls it,) and by the sweat of his brains, reduces ideas to words and words to printed books, is as much entitled to call the result of his work his *property* as the man who by brow-sweat, or by no sweating at all, becomes the unquestioned owner of lands or merchandise. If governments and legislatures are at this stage of the world's existence prepared to reconsider the question of property in its foundation, then the very able essay which Sir Louis Mallet has appended to the Commissioners' Report must be regarded as a valuable contribution—and copyright, the last form of property which

* The booksellers of the middle of the last century gave large sums for copyright, because it was then considered a *perpetuity*, and it was in this sense the jury found in the case of *Millar v. Taylor*.

governments have recognised, should properly be the first to be attacked and removed ; but apparently Sir T. H. Farrer and Sir Louis Mallet are willing for the present to waive their very abstract, not to say abstruse, views in favour of the majority who do recognise copyright as property ; they still however propound certain modifications which I propose to consider from a publisher's point of view further on.

COPYRIGHT AS PROPERTY.

There seems to be this difference between copyright and all other kinds of property,—that in all countries where copyright has been recognised as property, it has been specially protected by statute and limited to a certain term of years. In *Great Britain*, a term of forty-two years from publication, or, the life of the author and seven years from his death—whichever term may be the longer. In *France*, copyright is guaranteed to an author for his life, and (subject to a variety of special regulations) for fifty years after his decease. In *Germany*, copyright continues for the author's life, and for thirty years after his death. In *Austria* and *Hungary*, the term is the same. In *Holland*, for the life of the author and twenty years after. In *Norway*, for the life of the author and fifty years after his death. In *Denmark*, for the author's life and fifty years. In *Sweden*, for life and fifty years. In *Spain*, for life of author or translator or “other persons to whom it may pass by donation *inter vivos*”—then for eighty years. In *Russia*, for life and fifty years, and for ten years more if an edition is published within five years of the end of the first term. In *Greece*, copyright is for fifteen years from publication. In *Italy*, for life and forty years, with a second term of forty years, during which anyone can publish the work upon paying a royalty to the author or his assigns. In *Portugal*, for life and thirty years after author's death. In *Switzerland*, life of the author, or to his heirs for thirty years from date of publication. Heirs have the right for ten years to publish a posthumous work of the author, which, if they avail themselves of, they are protected for thirty years from death of author. In *Turkey*, to the

author, his heirs or assigns, for forty years. In *Brazil*, author's life and ten years. *Republic of Chili*, author's life and five years after his death. *Japan*, author and his heirs for thirty years, or for works of great utility, forty-five years. *Mexico*, literary copyright is perpetual, registration and deposit obligatory. *United States of Venezuela*, author's life and fourteen years. In *Belgium*, for life and twenty years. In the *United States*, for twenty-eight years from the time of recording the title, and fourteen years more if the author, or certain representatives of the author, be living, and the title be recorded anew within six months before the expiration of the twenty-eight years.

It will thus be seen that the wisdom of the most enlightened nations in the world is unanimous in its recognition of the rights of authors in their works; differing only in the term of years for which those rights should be protected. In contradistinction to the views of transcendentalists, who follow Lord Camden, this must be regarded as the true view of the value and legitimacy of copyright property.

Assuming then that copyright is property, limited as above described, it seems only reasonable that it should enjoy the same privileges, and be subject to the same conditions everywhere, as all other kinds of property. England maintains this ground by granting copyright to every author of every nationality, but somewhat mars the gracefulness of the gift by insisting that in order to enjoy this right the author's work must be first published in England.

A foreigner publishing in France enjoys the same copyright as a Frenchman, whether he has previously published in his own or any other country or not; nor does a French subject injure his copyright by publishing first in a foreign country.

This being the case, France may certainly be regarded as being ahead of this country in its desire not merely to protect authors, but, as Lord Cairns puts it, "to increase the common stock of the literature of the country."

It seems, however, that in countries having international conventions with France the rights of foreigners are made to conform to those conventions, and cannot be maintained by the *décret-loi* unless the work has been first published in France. Thus, although France was amongst the first to agree to and

adopt international conventions for the protection of foreign authors, such conventions would have been wholly unnecessary had all other countries recognised and adopted the same wise and liberal policy as that which exists in the French *décret-loi*, March, 28, 1852, with reference to the property of foreigners.* If such a view were universally recognised by civilised nations, the many complications arising out of the question of authors' rights would be immensely simplified. France must be regarded as in the van of this liberal policy; England next. I am not aware of any other countries giving these rights to foreigners, apart from international conventions, whilst America shuts herself selfishly up in her own great country, and refuses to give any rights whatever to foreign authors, unless they go over and enrol themselves as citizens under the star-spangled banner.

The *first Copyright Act*—that of Queen Anne, 1709 (8 Anne, c.19)—was passed professedly for the encouragement of learning, and secured to authors the sole right of printing their works for fourteen years; with another term of fourteen years, if living, at the expiration of the first, making in all twenty-eight years at most. It seems, however, that in those good old times publishers were not so acute, or so grasping, or so anxious to cut each other's throats as in the present day; for it is said that long after the passing of this statute there was a custom carefully observed among publishers not to interfere

* "Les droits conférés par le décret-loi du 28 mars aux auteurs et artistes d'œuvres parues originairement à l'étranger sont définis et réglés par la législation française; ils ne sauraient l'être par les législations respectives de chaque État. Ces auteurs et artistes sont assimilés aux auteurs et artistes d'œuvres parues originairement en France; ils ne peuvent être traités d'une manière plus favorable. Cependant, lorsqu'une convention a été conclue avec un État, ce traité modifie les effets du décret-loi du 28 mars, en tant que ses dispositions seraient en opposition avec le dit décret; les prescriptions de la nouvelle convention deviennent la loi spéciale des parties et les droits des auteurs et artistes de cet État sont réglés en France par la convention intervenue. Le décret-loi du 28 mars ne donne pas le droit aux auteurs et artistes d'œuvres parues originairement à l'étranger de jouir des bénéfices résultant, en pays étrangers, des conventions internationales; ils n'en peuvent profiter que lorsque leurs œuvres ont paru originairement en France."—M. DELALAIN, *Nouvelle Législation des Droits de Propriété Littéraire et Artistique*.

with one another's lapsed copyright, and thus practically a kind of perpetual copyright was recognised.

Then came the Act (15 Geo. III. c. 56) which gave perpetual copyright to the Universities; then the Act (41 Geo. III. c. 107) which extended copyright to Ireland; and the Consolidation Act (54 Geo. III.), which lengthened the term to twenty-eight years absolutely, and further for the life of the author if then living.

Next came Serjeant Talfourd's Act of 1842 (5 & 6 Vict. c. 45), which gave the author copyright for life and seven years after, or for forty-two years from date of first publication, whichever period might be the longest. This Act was followed by sundry others for the protection of dramatic pieces, art works, &c., and international copyrights covered by special conventions; but substantially, so far as literature in Great Britain is concerned, Talfourd's Act forms the law which protects literary copyright at the present time.

It has been deemed desirable to revise and consolidate the various Acts now existing, for which object a Royal Commission was formed whose Report was issued in the year, 1878. *This Report formed the basis of "a Bill to consolidate and amend the Law relating to copyright," prepared and brought in by Lord John Manners and ordered to be printed July 29, 1879, but owing to pressure of other business it never came under discussion.*

Another Bill has now been prepared by the joint efforts of "The Copyright Association" and "The Society of Authors," in which most, if not all, of the provisions of the Lord John Manners Bill have been incorporated. This Bill only awaits the chance of a favourable hearing in Parliament to become law, and so set at rest for ever the many anomalies which the Commissioners have pointed out, pending which I have thought it well to retain here the suggestions of the Commissioners—with a revision of my own remarks thereon—so far as they have been affected by time and circumstance.

I shall also add here and there such items of information on the present Law of Copyright as I have found useful myself, and which may also prove useful to others. In this I shall be mainly guided by that admirable Digest which Sir James Stephen presented in the Report of the Royal Commissioners, 1878. I shall note, as far as practicable, any points wherein these recommendations of

the Commissioners differ from the Bill above referred to, which it is hoped may become law during the present session of Parliament, and the Text of which will be found in Appendix III.

The first point to which the Commissioners drew attention with reference to the existing law was that "its form as distinguished from its substance is bad. The law is wholly destitute of any sort of arrangement, incomplete, often obscure, and even when it is intelligible upon long study it is in many parts so ill expressed, that no one who does not give such study to it can expect to understand it." The first object of the Commissioners was therefore to reduce the unintelligible and heterogeneous mass of which the various Copyright Acts are comprised into an intelligible form, and they dealt with all these subjects systematically under the following headings:—

Home Copyrights—Unpublished Works—Necessity for Copyright—The Royalty System—The Term of Copyright—Books University Copyright—Place of Publication—Persons capable of obtaining Copyright—Immoral, irreligious, seditious, and libellous Works—Abridgment of Books—Dramatic Pieces and Musical Compositions—Dramatisation of Novels—Lectures—Newspapers—Fine Arts—Sculpture—Painting—Assignment of Copyright on sale of Pictures—Architecture—Registration and Deposit of Copies—Forfeiture of Copies—Public Libraries—Music and the Drama—Penalties—Fine Arts—Infringement—Piracy of Lectures—Colonial Copyright—International Copyright.

In the following remarks I propose to consider the subject of copyright chiefly with regard to the various aspects in which the interests of authors and publishers of books are affected.

DURATION OF COPYRIGHT.

The Commissioners propose:—

1. The same term as that adopted by Germany, viz., for life and thirty years.
2. If, by convention, a common term should be fixed in all

countries, power should be given to adopt the term fixed by such international arrangement.

3. In case of posthumous and anonymous works and of Encyclopædias, the period should be thirty years from date of deposit at British Museum; in case of anonymous works the author should be allowed, during the period of thirty years, by attaching his name to an edition of his work, to secure the full time of life and thirty years.
4. Copyrights in existence at time of passing the Act should be extended to proposed term of copyright, subject to a proviso guarding against the alteration of existing contracts between authors and publishers. In no case should the duration of existing copyrights be abbreviated.
5. Copyright in essays, articles, or portions of reviews, magazines, or other periodical works of a like nature, if written by various persons for a proprietor, the same rights shall belong to him as to the author of a book, except that a right of separate publication reverts to the author after twenty-eight years, for the remainder of the period of copyright, and during the twenty-eight years the proprietor of the work cannot publish the articles separately without the consent of the author or his assigns. It is now proposed that the right of separate publication should revert to the authors of the articles at the expiration of three years instead of twenty-eight, and that this provision should be made retrospective. This does not apply to articles in Encyclopædias, which separately belong to the proprietor of the Encyclopædia, for the full period of thirty years.
6. It is recommended, with reference to articles in magazines, &c., as above, that during the period before the right of their publication reverts to the author, he should be entitled, as well as the proprietor of the magazine or periodical, to prevent an authorised separate publication.

The above proposals are somewhat modified by the Bill before mentioned (*see Appendix III.*).

The following and subsequent extracts taken from Sir James Stephen's 'Digest' furnish a brief summary of the leading features of the present copyright law.

Book defined—Law of Copyright in Books.

The word "book" means and includes every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan, separately published.

The word "copyright" means the sole and exclusive liberty of printing, or otherwise multiplying copies of any subject to which the word is applied.

When a book is published in the lifetime of its author, the copyright therein is the personal property of the author and his assigns from the date of such publication, for whichever may be the longer of the two following terms, that is to say :

1. *A term of 42 years from publication.*
2. *The life of the author, and a term of seven years, beginning from his death.*

If the publication takes place after the author's death, the proprietor of the author's manuscript and his assigns have copyright in his book for a term of 42 years from its first publication.

If one person employs and pays another to write a book on the terms that the copyright therein shall belong to the employer, the employer has the same copyright therein as if he had been the author.

If the publisher or proprietor of any encyclopædia, review, magazine, or periodical work, or work published in parts or series, employs and pays persons to compose any volume, part, essay, article, or portion thereof, on the terms that the copyright therein shall belong to such publisher or proprietor, such publisher or proprietor has upon publication the same rights as if he were the author of the whole work (with the following exceptions):

1. *After 28 years from the first publication of any essay, article, or portion in any review, magazine, or other periodical work of a like nature [not being an encyclopædia], the right of publishing the same in a separate form reverts to the author for the remainder of the term for which his copyright would have endured if the same had been originally published by him elsewhere.*
2. *During the said term of 28 years the publisher or proprietor may not publish any such essay, article, or portion, separately or singly, without the consent of the author or his assigns.*

The author of any such magazine as aforesaid may, by contract with any such publisher or proprietor, reserve the right of publishing any work, his composition, in a separate form, and if he does so he is entitled to copyright in such composition when so published for the same term as if such publication were the first publication, but without prejudice to the right of the publisher or proprietor to publish the same as part of such periodical work.

In order to provide against the suppression of books of importance to the public, the Judicial Committee of the Privy Council are empowered, on complaint that the proprietor of the copyright in any book after the death of its

author has refused to republish or allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book in such manner and subject to such conditions as they think fit, and the complainant may publish such book accordingly.

It applies—

1. To all books published after 1st July, 1842.
2. To all books published before that day in which copyright was then subsisting, unless such copyright was vested in any publisher or other person who acquired it for any consideration other than that of natural love or affection, in which case such copyright endures for the term then provided for by law, unless the author, if living on that day, or if he were then dead his personal representative, and (in either case) the proprietor of the copyright, registered before the expiration of the term of copyright to which they were then entitled, consent to accept the benefits of the Act 5 & 6 Vict. c. 45, in a form provided in a schedule therein.

Who may obtain Copyright in Books.

In order that copyright in a published book may be obtained, the book must in all cases be published in the United Kingdom. The author or other person seeking to entitle himself to copyright may be either—

- (a) *A natural born or naturalized subject of the Queen, in which case his place of residence at the time of the publication of the book is immaterial; or*
- (b) *A person who at the time of the publication of the book in which copyright is to be obtained owes local and temporary allegiance to Her Majesty by residing at that time in some part of Her Majesty's dominions.*

It is probable, but not certain, that an alien friend who publishes a book in the United Kingdom while resident out of Her Majesty's dominions, acquires copyright throughout Her Majesty's dominions by such publication.

Previous and Contemporary Publication out of the United Kingdom.

No copyright in a book published in the United Kingdom can be obtained if the book has been previously published by the author in any foreign country, but the contemporaneous publication of a book in a foreign country and in the United Kingdom does not prevent the author from obtaining copyright in the United Kingdom.

It is uncertain whether an author obtains copyright by publishing a book in the United Kingdom, after a previous publication thereof in parts of Her Majesty's dominions out of the United Kingdom.

It is uncertain whether an author acquires copyright in any part of Her Majesty's dominions out of the United Kingdom (apart from any local law as to copyright which may be in force there) by the publication of a book in such part of Her Majesty's dominions.

CROWN COPYRIGHT.

"It is said that Her Majesty and her successors have the right of granting by patent from time to time to their printers an exclusive right to print the text of the authorised version of the Bible, of the Book of Common Prayer, and (possibly) the text of Acts of Parliament." The words "It is said" seem to deprive this statement of absolute authority. Her Majesty's Stationery Office recently warned publishers that there is "no difference as to copyright between the publications of the Government and of private individuals," but "it is not the intention of the Stationery Office to interfere with the privileges hitherto allowed to newspapers of publishing information of public interest extracted from parliamentary papers or the official Gazettes."

UNIVERSITY COPYRIGHT.

It appears that at present the University of Oxford possesses six copyrights in perpetuity, and that the University of Cambridge has none, and the Commissioners are of opinion that this exceptional privilege should be omitted from the future law, and the Universities and other institutions placed on the same footing as other copyright owners, not, however, without their consent as regards existing copyrights.

According to SIR JAMES STEPHEN "the universities of Oxford, Cambridge, Edinburgh, Glasgow, St. Andrews, and Aberdeen, each college or house of learning at the Universities of Oxford and Cambridge, Trinity College, Dublin, and the Colleges of Eton, Westminster, and Winchester have for ever the sole liberty of printing and reprinting all such books as have been or hereafter may be bequeathed or given to them by the authors thereof, or by their representatives unless they were given or bequeathed for any limited term." It should be added that this right only exists for books actually printed at their own printing presses within the said universities or colleges respectively, and for their sole benefit and advantage.

PLACE OF PUBLICATION.

Under the existing law, copyright can be obtained, *first*, by a natural born or a naturalized subject of the United Kingdom ;* *secondly*, by a foreigner residing at the time of first publication in the United Kingdom ;* and *thirdly*, by an alien friend first publishing in the United Kingdom,* though he may never

* By the International and Colonial Copyright Act, 1886, before referred to and given in full in the Appendix, the words *United Kingdom* may now read "*a British possession*." See also clause 7 of the new Bill given in *Appendix III*.

have resided therein. This latter case has been disputed, but in a well-known trial (*Low v. Routledge*) it was distinctly laid down by Lord Chancellor Cairns in these words :—

“The aim of the Legislature is to increase the common stock of the literature of the country; and if that stock can be increased by the publication for the first time here of a new and valuable work composed by an alien who has never been in the country, I see nothing in the wording of the Act which should prevent, and everything in the professed object of the Act, and in its wide and general provisions, which should entitle a person to the protection of the Act in return, and compensation for the addition he has made to the literature of the country.”

This opinion of Lord Cairns, although it has not the value of an absolute decision, has never since been seriously disputed, and it is now recommended to be made absolute by statute.

SIR JAMES STEPHEN says in reference to this, “It is probable, but not certain, that an alien friend who publishes a book in the United Kingdom while resident out of Her Majesty’s Dominions, acquires copyright throughout Her Majesty’s Dominions by such publication.” Of course the new INTERNATIONAL AND COLONIAL ACT, 1886, extends this PROBABILITY to all the British possessions. The New Copyright Bill if passed will convert this probability into certainty.

There are other anomalies in the existing state of the law, more especially as regards the colonies, the chief of which seem to have arisen from the fact that the aim of the copyright law being, as pointed out by Lord Cairns, “to increase the common stock of literature” *within the United Kingdom*, the term could not be made to apply to the colonies. Thus, as was pointed out in the evidence before the Commissioners, a *foreigner* publishing an English work first in England may obtain copyright in England and the colonies; an *Englishman* publishing first abroad will lose his copyright at home; a *colonist* who publishes first in his own colony cannot obtain copyright in Great Britain.

Copyright in the United Kingdom extends to every part of the British dominions; but if a book be published first in any part of the British dominions other than the United Kingdom, the author cannot obtain copyright either in the United

Kingdom or in any of the colonies;* unless there be some local law in the colony of publication under which he can obtain it within the limits of that colony.

To remedy these evils, the Commissioners recommend that, where a work has been first published in any one of the British possessions, the proprietor of such work shall be entitled to the same copyright and to the same benefits, remedies, and privileges in respect of such work as he would have been entitled to if the work had been first published in the United Kingdom; and that a British author, who publishes a work out of the British dominions, shall not be prevented thereby from obtaining copyright within the same by a subsequent publication therein, provided such republication be within three years of the first publication.

And as to aliens, the Commissioners suggest giving them "the same rights as British subjects, if they first publish their works in the British dominions."

(The anomalies and evils above pointed out are now happily all done away with by clause 8 of "The International and Copyright Act, 1886." See Appendix I.)

REGISTRATION AND DEPOSIT OF COPIES.

With reference to registration under the present system there can scarcely be two opinions that, as the Commissioners say, "it is practically useless, if not deceptive;" and as it is optional, and "the fees unnecessarily high," it is seldom resorted to except in cases of infringement, as no action can be maintained until registration has been performed.

Under the existing law the fee for entering any book, right of representations of a dramatic piece, or musical composition, is *five shillings*.

The plan which the Commissioners propose to adopt seems to be one which should be well considered by all interested in the subject; they are satisfied that registration should be insisted upon, that it should be made compulsory, and that—

"A copyright owner should not be entitled to take or maintain

* Sir James Stephen says this is uncertain.

any proceedings, or to recover any penalty in respect of his copyright until he has registered, and that he should in *no case be able to proceed after registration for preceding acts of piracy.*" *

And they adopt this apparently severe penalty because otherwise "the compulsory provisions of the law would to a certain extent be naturalized." They think, however, that, "as a rule, registration would be effected immediately on publication, and before the work could be copied." Of this there can be little doubt; and to insure themselves, authors, in making their agreements with publishers, might insert a clause which would throw the whole onus of registration upon the publisher, and the penalty incurred by piracy.

The Commissioners, however, propose to provide an interim period of protection of *one month* after publication.

It is proposed that the two Acts of *registration* and *deposit* should be combined, thus making registration, as deposit now is, compulsory, and the fee for such registration *one shilling*. That a Registrar should be appointed, whose certificate should be *prima facie* evidence in courts of law of the publication and due registration of the work, and of the title to the copyright of the person named therein. An author or publisher might be disposed to grumble at this compulsory shilling fee, and think it would not seem unreasonable that the value of the book deposited should be regarded as an equivalent for the certificate; as, however, this certificate carries copyright with it, he should rather be delighted at having such a cheap and simple means of maintaining his rights. Even if compulsory registration did not carry copyright, it would still be most valuable as being the best means of forming a complete record of all books published.

A difficulty seems to have arisen as to place of registration, the British Museum authorities being unwilling to undertake the responsibility; and therefore as the Stationers' Company are prepared to enlarge their premises to any extent that may be required, there can be no special object gained by removing the office of Registrar from Stationers' Hall, pro-

* Which means that pirated editions printed and published *before* registration may continue to be sold *afterwards*, but they cannot be reproduced.

vided, of course, that the proposal can be fully carried out there under the control of Government.

This recommendation of the Commissioners was not unanimously agreed to.

*According to the present law, no proprietor of copyright in any book can take any proceedings in respect of any infringement of his copyright unless he has, before commencing such proceedings, caused an entry to be made in the Register at Stationers' Hall; but the omission to make such entry does not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof.**

PUBLIC LIBRARIES.

From the time of Charles II. to the present time, it has been the privilege of five great public libraries, viz., the British Museum, the Bodleian Library at Oxford, the Library of the Faculty of Advocates at Edinburgh, the Public Library at Cambridge, and the Library of Trinity College, Dublin, to demand gratuitously one or more copies of every book published. As a publisher, I can bear testimony to the fact that this is felt to be a very heavy and burdensome tax, in many cases an *intolerable* one, as it applies indiscriminately to sixpenny pamphlets, and to works published at twenty or thirty guineas, of which, perhaps, not more than a hundred are printed. The compulsory gift of five copies of such works not unfrequently converts a small profit into an absolute, heavy loss.

It is very satisfactory to find that the Commissioners join with one voice in recognition of the injustice of taxing authors and publishers for the maintenance of wealthy public libraries, and very justly ask why the public, or the bodies to be benefited, should not pay for the books they require. The conclusion they have come to is that "so much of the existing law relative to the gratuitous presentation of books to libraries, as requires books to be given to libraries other than the British Museum, should be repealed."

The Commissioners, it will thus be seen, do not propose to

* See also Clauses 10 to 25 of *new Bill* in Appendix III:

interfere with the gift of one copy to the British Museum, and to this, when coupled with the copyright certificate proposed to be given on its receipt (on payment of a fee of a shilling), there can be no reasonable objection on the part of authors or publishers.

NON-COPYRIGHT IMPORTED BOOKS.

It has long been a matter of dispute between the authorities of "The British Museum" and certain publishers in the habit of importing American books, and for the convenience of the public printing their names on the title-pages, as to the liability of the latter to deliver copies of these non-copyright American books to the British Museum and the other public libraries. On the face of it one would suppose that every section of an Act of Parliament, the whole tenour and gist of which is the maintenance of copyright, could only apply to books which were so protected. The authorities of the British Museum, acting on counsel's opinion, have always demanded such books—whilst the publishers, finding the burden intolerable of being compelled to deliver up five copies of every work, no matter how expensive it may be, or how few the copies (it may be only fifty or a hundred) imported, have resisted this demand, without, however, going the length of trying the question in a court of law. They recently brought the question under the notice of "The Copyright Association," who at once determined to take counsel's opinion on the question—more particularly with reference to the construction of sections 6, 7, 8, 9, of 5 & 6 Victoria, cap. 45—the two latter sections having special reference to the delivery of books to the libraries of Oxford, Cambridge, Edinburgh, and Dublin. Accordingly, the following questions were put to counsel:—

(1) Whether a copy imported from New York of the book 'X' first published here by New York publishers, such copy being one of a certain number imported by a London firm of publishers for sale in the United Kingdom, and bearing their imprint on the title page, must be delivered at the British Museum under 5 & 6 Vict. cap. 45, sec. 6.

Counsel's opinion.—Yes.

(2) Whether a copy of a reprint published in the United Kingdom of a foreign book, i.e. of a book first published abroad—not possessing copyright in

England under the International Copyright Acts, must be delivered to the British Museum under the said Act of 5 & 6 Vict. cap. 45. sec. 6.

Counsel's opinion.—Yes.

(3) Whether a copy of the new edition of 'Y' by a late English author, the imperial copyright in the original book which was duly deposited having expired, and the new edition being merely a reprint without additions and alterations of the original book, or of an edition thereof already deposited, must be delivered to the British Museum under the said Act of 5 & 6 Vict. cap. 45, sec. 6.

Counsel's opinion.—No, there being no alterations or additions.

(4) Whether a copy of a reprint published in the United Kingdom of a book originally possessing imperial copyright under the International Copyright Acts and Conventions, but in which such copyright has expired, must be delivered to the British Museum under the said Act of 5 & 6 Vict. cap. 45, sec. 6.

Counsel's opinion.—No, if the book was originally delivered to the British Museum and the reprint contains no alterations or additions. Yes, if the reprint contains alterations or additions.

Unfortunately section 6, as counsel admits, is not very clear when considered in the light of American importations, although it cannot be doubted that those who framed the Act could only have had copyright books in their minds, still a literal construction of it can only lead to the one conclusion at which counsel has arrived. It says "that a printed copy of the whole of every book which shall be published after the passing of this Act," &c., &c. Of course if an English publisher issuing ever so small an edition of an American book with his own name on the title-page, either in conjunction with or without an American publisher's name, is to be considered as having published the work, no more can be said. The counsel employed by "The Copyright Association" were Sir Henry James and Mr. F. F. Daldy, Barrister-at-Law. Their opinion, as will be seen above, being adverse to the claims of publishers, they will have to submit, or no longer append their names to the title-pages of books first published in America—unless any one or a combination of them would boldly settle the matter in a court of law.

It must be remembered that under the law the Museum is entitled to a copy of the best edition of every book published in the United Kingdom, delivered at the British Museum. The other libraries, only on demand, are entitled to books printed upon the paper of which the largest number of copies of such books or editions shall be printed for sale. As an interval of twelve months is allowed after publication, cheap editions may therefore be sent to these libraries.

N.B. Clause 11 of the new Bill will put this matter right, for it says, "The copyright owner" must deliver, &c.—which surely cannot cover a non-copyright book. (See Appendix III.)

COPYRIGHT IN PRIVATE DOCUMENTS.

"The author or owner of any literary composition or work of art has a right, so long as it remains unpublished, to prevent the publication of any copy of it by any other person."

COPYRIGHT IN LETTERS.

"A person who writes and sends a letter to another retains his copyright in such letter, except in so far as the particular circumstances of the case may give a right to publish such letter to the person addressed, or to his representatives, but the property in the material on which the letter is written passes to the person to whom it is sent, so as to entitle him to destroy or transfer it."

WHAT IS INFRINGEMENT OF COPYRIGHT IN A BOOK, AND WHAT NOT—FAIR USE OF BOOKS.

"The owner of the copyright in a book is not entitled to prevent other persons from publishing the matter contained in it if they invent or collect it independently, nor to prevent them from making a fair use of its contents in the composition of other books."

"The question, What is a fair use of a book, depends upon the circumstances of each particular case, but the following ways of using a book have been decided to be fair :—

"(a.) Using the information or the ideas contained in it, without copying its words or imitating them so as to produce what is substantially a copy."

"(b.) Making extracts (even if they are not acknowledged as such) appearing, under all the circumstances of the case, reasonable in quality, number, and length, regard being had to the object with which the extracts are made and to the subjects to which they relate."

"(c.) Using one book on a given subject as a guide to authorities afterward independently consulted by the author of another book on the same subject."

"(d.) Using one book on a given subject for the purpose of checking the results independently arrived at by the author of another book on the same subject."

"An abridgment may be an original work if it is produced by a fair use of the original or originals from which it is abridged, but the republication of a considerable part of a book is an infringement of the copyright existing in it, although it may be called an abridgment, and although the order in which the republished parts are arranged may be altered."

PENALTIES FOR INFRINGING COPYRIGHT IN BOOKS.

Every one is liable to an action who, in any part of the British dominions—

- (a.) *Prints or causes to be printed, either for sale or exportation, any book in which there is subsisting copyright, without the consent in writing of the proprietor;*
- (b.) *Imports for sale or hire any such book so having been unlawfully printed from parts beyond the sea;*
- (c.) *Knowingly sells, publishes, or exposes to sale or hire, or causes to be sold, published, or exposed to sale or hire, or has in his possession for sale or hire any book so unlawfully printed or imported.*

The action must be brought in a Court of Record and within twelve months after the offence.

SPECIAL PENALTY FOR UNLAWFULLY IMPORTING COPYRIGHT BOOKS.

The following consequences are incurred by every one, except the proprietor of the copyright of any book, or some person authorized by him, who imports or brings, or causes to be imported or brought [for sale or hire], into the United Kingdom, or into any other part of the British dominions, any printed book in which there is copyright, first composed, written, or printed [and published] in any part of the United Kingdom, and reprinted in any country or place out of the British dominions;

Or, who knowingly sells, publishes, or exposes to sale, or lets to hire, or has in his possession for sale or hire any such book, that is to say:

- (a.) *Every such book is forfeited, and must be seized by every officer of Customs or Excise, and in that case must be destroyed by such officer.*
- (b.) *The person so offending must, upon conviction before two justices, be fined £10 for every such offence, and double the value of every copy of any such book in respect of which he commits any such offence.*

Provided that if the Legislature or proper legislative authorities in any British possession pass an Act or make an Ordinance, which, in the opinion of Her Majesty, is sufficient for the purpose of securing to British authors reasonable protection within such possessions, Her Majesty may approve of such Act and issue an Order in Council declaring that so long as the provisions of such Act remain in force, the prohibition hereinbefore contained shall be suspended so far as regards such colony.

PIRATED COPIES FORFEITED TO REGISTERED OWNER.

All copies of any work in which there is a duly registered copyright unlawfully printed or imported without the consent in writing under his hand of the registered proprietor of the copyright are deemed to be the property of the registered proprietor of such copyright, and he may sue for and recover the same, with damages, for the detention thereof, from any person who detains them after a demand thereof in writing.

See also New Bill, Appendix III.

DRAMATIC PIECES AND MUSICAL COMPOSITIONS.

With regard to the duration of copyright in dramatic pieces and musical compositions, the Commissioners "recommend that both the performing right and the literary right should be the same as for books." They further propose, "in order to avoid the disunion between the literary and the performing rights in musical compositions and dramatic pieces, that the printed publication of such works should give dramatic or performing rights, and that public performance should give literary copyright. For a similar reason it would be desirable that the author of the words of songs, as distinguished from the music, should have no copyright in representation or publication with the music, except by special agreement."

The present law is—

The author, or the assignee of the author, of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment or musical composition. . . . has as his own property the sole liberty of representing or causing to be represented or performed, any such dramatic piece or musical composition at any place of dramatic entertainment whatever in Her Majesty's dominions, possibly in perpetuity, but more probably for whichever is the longer of the two following terms, viz. :—

(1.) *Forty-two years from first representation.*

(2.) *Life of the author and seven years from his death.*

The above exclusive right cannot be gained if the works have been printed and published in a book before the first representation ;

Or, if they have been publicly represented in any place out of Her Majesty's dominions before representation in them, except under the International Act.

Copyright in a book containing or consisting of a dramatic piece or musical composition is a right distinct from the right to represent such dramatic piece or musical composition on the stage, and no assignment of the copyright of any such book conveys to the assignee the right of representing or performing such dramatic piece or musical composition unless an entry of such assignment is made in the registry book mentioned in Article 23, expressing the intention of the parties that such right should pass.

A dramatic piece or musical composition published as a book may (it seems probable) be publicly represented without the consent of the author or his assigns.

INFRINGEMENT OF COPYRIGHT IN A MUSICAL COMPOSITION.

Copyright in a musical composition is infringed when a substantial portion of the music in which copyright exists is reproduced either without any alteration or with such alterations as are required to adapt it to a different purpose or instrument, the alterations being of such a character that the substantial identity between the original and the altered version can be recognized by the ear.

(See also the New Bill, Appendix III.)

DRAMATISATION OF NOVELS.

The Commissioners "have come to the conclusion that the right of dramatising a novel or other work should be reserved to the author. This change would assimilate our law to that of France and the United States, where the author's right in this respect is fully protected." They add, "We are disposed to think that the right of dramatisation should be co-extensive with the copyright. It has been suggested, in the interest of the public, that a term, say of three or five years, or even more, should be allowed to the author, within which he should have the sole right to dramatise his novel, and that it should be then open to any one to dramatise it. The benefit, however, to the public in having a story represented on the stage does not appear to us to be sufficient to outweigh the convenience of making the right of dramatising uniform in its incidents with other copyright."

The present law is—

The public representation of a dramatic piece constructed out of a novel is not an infringement of the copyright of the author of the novel or his assigns, but the printing and publication as a book of such dramatic piece so represented may be such an infringement.

If two persons independently of each other convert a novel into a dramatic piece, each has an exclusive right of representing his own dramatic piece, though one of them may be the author of the novel so dealt with and though the two pieces may have parts in common.

(See also New Bill, Appendix III.)

COPYRIGHT IN MAPS, CHARTS, OR PLANS.

Sir James Stephen does not refer to these in his Digest, and the law does not seem to be very clear. Copinger says, "It is an extremely difficult thing to establish identity in a map or a mere list of distances, but there may be originality in casting an index or pointing out a ready method of finding a place in a map." It seems clear, however, that although any one who has the intention of publishing a map may take advantage of all prior publications, he cannot servilely copy an original work. Copinger quotes Lord Eldon, who said: "I admit that no man can monopolize such subjects as the English Channel, the Island of St. Domingo, or the events of the world; and every

man *may take what is useful from the original work, improve, add, and give to the public the whole, comprising the original work, with the additions and improvements.*"

In the "Bill to Consolidate and Amend the Law of Copyright" now before Parliament, "map," "chart," or "plan" fall in the same category as "books." See *Definitions*, clause 4, in the Bill (which will be found in the Appendix).

COPYRIGHT IN THE COLONIES.

As the British copyright law extends to all the British possessions, with certain reservations by Order in Council as regards some of them, and with no reservation as regards the very important book-buying colonies of Australasia, it follows that these colonies must depend wholly for the supply of English copyright literature upon the mother country; and that they must pay for this English literature at English prices, with extra charges of carriage, insurance, and commission added. This has by some been regarded as a great hardship to young and not always affluent colonies. As a publisher, having very large transactions with the colonies, I am enabled to say that practically no such hardship exists. Booksellers in the colonies are supplied by English publishers on such exceptionally liberal terms as to price and extra length of credit, that they are enabled to, and do, offer English books to their customers at the *home published price without any extra charge whatever*. Colonists, therefore, as regards English books, are placed upon an equal, if not even a better, footing than Englishmen at home. There doubtless are some exceptions with regard to certain technical or high-priced books on which the usual liberal discounts cannot be allowed, but, as a rule, colonists have no hardship to endure and no cause of complaint, nor have I ever heard of complaints on this head; nor indeed should there be any such complaints, seeing that these markets are abundantly, even plethorically, supplied with books of all kinds and at all prices from sixpence upwards.

It is to be regretted that in this instance the Commissioners allowed themselves to be misled by those impracticable theorists who have a craze about cheap literature. "The main grievance," they say, "lies in the difficulty experienced by the

colonists in procuring at a sufficiently cheap price a supply of English copyright books."

It has already been shown that the Australasian (if not other colonies), not yet smitten by the greed of piracy, experience no such difficulty. They are at least on a par with residents in the United Kingdom, even to the possession of "book clubs, book societies, and circulating libraries."

The Commissioners recommend that this imaginary difficulty should be met in two ways. *First*. By the introduction of a *licensing system* in the colonies.* *Secondly*. By continuing, though with alterations, the provisions of what is called the *Foreign Reprints Act*.* †

It is difficult to conceive why the Commissioners should have considered any such cumbrous machinery necessary. They have fully recognised the fact that the Imperial law should extend to the colonies, not merely as it does at present, but also by abrogating the necessity for first publication in the United Kingdom.‡ If they would let the matter rest there, all other difficulties would right themselves. If copyright is *property*, why should it be vexed with such petty interferences?

* Which means, "that in case the owner of a copyright work should not avail himself of the provisions of the Copyright Law (if any) of the colony, and in case no adequate provision be made by re-publication in the colony within a reasonable time after publication elsewhere, for a supply of the work sufficient for general sale, a *licence* may upon application be granted to republish the work in the colony, subject to a royalty in favour of the copyright owner of not less than a specified sum per cent."

* In order to secure the rights of copyright proprietors, it is suggested that "all foreign reprints should be sent to certain specified places in the colony, and should be there stamped, with date of admission, upon payment of the duty, which could then be transmitted here for the author."

† The new Bill (clauses 37, 38) on "*Copyright in the British Possessions*," goes into no detail on this subject. (See Appendix.)

‡ It should be mentioned that this proposal of the Commissioners has now become law. Clause 8 of "*The International and Colonial Copyright Act*," which was passed June 25, 1886, the full text of which will be found in the Appendix, specially enacts, that with certain needful provisions therein mentioned, "*The Copyright Acts shall apply to a literary or artistic work produced in a British possession in like manner as they apply to a work first produced in the United Kingdom.*"

The natural law of supply and demand would certainly settle the question of cheap editions, far more satisfactorily than any legislation. If any particular work is in very large demand in any colony, the author and publisher may be safely trusted to supply it, either by printing a special cheap edition at home to send out, *as is now constantly done*, or else by arranging with a colonial publisher to print it in the colony (and the Imperial Act does not prevent that being done); why then worry either author or publisher with a legislative enactment to enforce it, which will cramp his independence, mulct him of his reasonable share of profits, and benefit the public not one iota.

The *licensing system* by local law and Orders in Council cannot fail to be cumbersome and expensive, and however strictly observed must necessarily be unsatisfactory to all concerned, especially to the author, besides being, as has been shown above, wholly needless for the object in view, especially to such colonies as those of Australasia, which are by far the largest consumers of English books.

Moreover, how can an author or publisher in England know that his rights are properly protected? Will the Government appoint a protector of British copyright interests in the colonies?

The Foreign Reprints Act, as proposed (see 'Copyright in Canada,' p. 29), which was found to be so utterly inoperative in the Dominion of Canada, is totally unnecessary in the Australasian Colonies, under any modifications—such as stamping of copies—simply because all that it provides for can be, and is, fully accomplished at present without it, by the intimate commercial relations betwixt home and colonial publishers.

The West Indian, the Cape, and other colonies probably draw a large portion of their supply of English literature from the American reprints under the Foreign Reprints Act, at present with no appreciable benefit whatever to authors; it may be well perhaps for the Commissioners (*or rather the promoters of the Bill now before Parliament*) to revise this system so far as these colonies are concerned: and, generally speaking, if instead of devising unnecessary plans for catering to imaginary wants of colonial readers by making enact-

ments to supply them with cheap literature (with which they can be, and are, abundantly supplied without), the Commissioners would turn their earnest attention to devising some strong measures for the real protection of authors' interests, by absolutely excluding unauthorised reprints from colonies where they are not wanted, they would be doing good service to copyright owners.

Whilst writing, I have just received a case in point:—the BOOKSELLERS' ASSOCIATION OF MELBOURNE, under date the 31st of December, 1878, send me a circular complaining bitterly that—

“Great exertions are being made throughout the Australian colonies, *by the agents of American publishing houses*, to drive a trade in books; nor do they confine these exertions to American literature, but reprints of British copyright works are from time to time introduced and openly offered for sale. . . . A glaring instance is a pirated abridgment of Dr. Wm. Smith's ‘Dictionary of the Bible,’ of which hundreds of copies have been sold.”

It appears that by “the vigilance of the *Commissioner of Customs*” consignments have occasionally been confiscated; but that system, though useful, is not always efficacious, as “in the *first place* means are often found to elude the watchfulness of the Custom House authorities; and, *secondly*, some of the officials in our various colonies may be disposed to treat attempts to evade the law in reference to reprints with indifference.” Have they been so educated by the *Board of Trade*? It will thus be seen that the pressure for cheap literature is not from *within* the colonies, it is a pressure from *without* of enterprising Yankees, endeavouring to evade our laxly-kept Customs laws, and cramming piratical works under the noses of the colonists! Presently we shall be told that the hungry and starving colonists are pining for this forbidden fruit! Indeed this is the kind of “grievance” fostered by the Board of Trade and needlessly recognised by the Commissioners. (*The complaint referred to above in 1878 prevails still in 1887.*)

COPYRIGHT IN INDIA.

On this subject the Commissioners are strangely silent, although it is one about which copyright owners and publishers should be well informed. Sir Charles Trevelyan in his evidence stated that "an Indian Act gave powers in 1844 to the Secretary of State, by which foreign copies could be imported on payment of a Customs duty of 10 per cent.; but," says Sir Charles, "the question of importing foreign reprints into India has not practically arisen, because India is entirely free. *The demand of India is supplied to a great extent from America.*" This is by no means clear, but if it means that India gets her supply of American native-born literature—that is, literature which is not reprinted from English authors—and if India imposes a duty of 10 per cent. thereon for revenue purposes, well and good; but if by foreign copies it is meant that American reprints are so admitted, then a grave injustice is done, which requires looking into. Probably, however, Sir Charles has somewhat overstated the case.

In reply to my inquiry from a large Indian book-importing house, I am told that:—

1. English copyright law extends to India, and protects all books, British and Indian. But actions for piracy are barred after twelve months.*
2. American or German reprints (piracies) are not knowingly admitted. To our knowledge, cases of American reprints have been seized and confiscated.
3. A good deal of piracy goes on in India *because it is no one's interest*, or not worth while to check it.

Here again, then, American enterprise invades British territory, and the supine Customs officers seem to be quite incapable of coping with the invasion—now and then only is a case confiscated. Of course one knows well that the prime duty of a revenue officer is to look after dutiable goods, and the extreme

* By the Indian "Limitation of Suits Act" action for breach of copyright must be brought within twelve months of publication of Piracy, or it is barred.

sharpness he displays in scenting out even the smallest packet of goods upon which duty can be levied, contrasts curiously with his extreme indifference in the case of pirated editions, from which no duty is obtainable. As in Australasia, so it is in India.

It thus appears that the machinery for stopping the importations, by means of her Majesty's Customs, is lax and ineffectual everywhere, and surely this is a most important matter for consideration. *Probably clauses 37 and 38, taken in connection with clauses 5, 6, and 7 of the New Copyright Bill, will be found sufficient to prevent a continuance of this evil.*

It is certainly to be hoped that every British Possession will make "satisfactory provision, with suitable penalties," for carrying these clauses into effect.

COPYRIGHT IN CANADA.

Here the case is different. Canada's great freebooting neighbour has for generations pounced upon the cream of English literature—quite regardless of the question of *meum and tuum* involved in the word *property*, which all other civilised nations have now fully recognised—and being untrammelled by authors' rights, has freely reprinted all good English books in an inferior style, and at prices considerably lower than the original English prices. The temptation to obtain these cheap reproductions was naturally too strong to be resisted by the Canadians, and in spite of Imperial law to the contrary, they imported these reprints freely.

Consequently, in 1847, a Colonial Act (which has been termed the Foreign Reprints Act) was passed and sanctioned by Order in Council, and which permitted Canadians to import American reprints on payment of a Customs duty of 12½ per cent., the proceeds to be paid over to the British Government for distribution among the authors interested. The result, however, to British authors was so absurdly trifling as to make the law ridiculous, and American reprints somehow got into the Dominion, perhaps more largely and quite as freely as before.

It is due, however, to the Canadian Government, to say that

it has always fully recognised English rights, and has made strenuous efforts to protect them. In 1875 an Act was passed in the Dominion (to which Imperial assent has been given), which granted to any person domiciled in Canada, or in any part of the British dominions, or being the citizen of any country having an International Copyright Treaty with the United Kingdom, who is the author of any literary or artistic work, power to obtain copyright in Canada for twenty-eight years by printing and publishing, or reprinting and republishing, his work there;* the chief conditions being that the author shall furnish a written description of his work to the Minister of Agriculture, who shall cause the copyright to be recorded, and a copy of the said work to be deposited in the library of the Parliament of Canada.

Notice of the copyright being thus secured is to be stated on the title-page or following page; and apparently with the view to prevent the importation of American reprints before the Canadian edition could be brought out, an important clause is inserted in the Act by which an *interim copyright* is granted, but such interim protection only endures for *one month from the date of the original publication elsewhere*, within which period the work must be printed and published in Canada. Notice of said interim registration must be inserted in the *Canada Gazette*.

A penalty not exceeding 100 dollars is incurred if any person fails to print and publish the said work within the prescribed time.

This Canadian Copyright Act, although it has been, like all previous ones, strongly objected to by some English authors and publishers, seems to be conceived in a spirit wholly beneficial to English authors, and is admirably calculated to promote their interests; inasmuch as it throws the whole onus of protecting them against American reprints on the very people who are most interested and best able to protect them, viz., the Canadian publishers.†

* The plates may be made elsewhere, but the work must be printed in Canada.

† It is a curious fact that many English authors, instead of availing themselves of this means of securing their copyright in Canada, abandon their

The whole state of the law as regards Canada may be thus epitomised:—

1. *By the International and Colonial Act, 1886, any native or foreign resident in Canada first publishing his work there or in Great Britain or in any British possession, gets copyright throughout the British Dominions.*
2. *The works of a British author cannot be reprinted in Canada without his permission, but if he does not comply with the Canadian Law, reprints may be imported into Canada from foreign countries (on payment of the Customs Duty aforesaid).*
3. *The works of a British author who complies with the Canadian Law can neither be reprinted in, nor imported into, Canada without his permission.*

INTRODUCTION OF REPRINTS.

It has been objected that these Canadian cheap reprints may find their way back to the United Kingdom, to the serious injury of the home editions.

On the other hand, it has been seriously urged that, as these reprints are produced by the sanction of the author, it is a right and proper thing that they should come into England for the benefit of the English public.

As to the *possibility* of such books coming in surreptitiously, and in spite of the present safeguards, I cannot think that this can be done to any serious extent. No bookseller would venture to sell them openly; for although they are published by the author's sanction, that sanction is expressly for sale in the Dominion of Canada, and in no other British possessions.*

colours for filthy lucre, go over to the enemy, and make arrangements with American publishers, whereby, for a consideration which they believe to be larger than they could obtain in Canada, the American edition is to have full circulation in Canada. In this case the American publisher arranges with some Canadian whose name appears in the imprint of the Canadian portion of the edition.

* In the *Edinburgh Review* for October, 1878, which contains a most able and exhaustive essay on the evidence before the Commissioners, and which ought to be reprinted separately and circulated largely, I find the

The Tauchnitz reprints are all published by the sanction of the English author; but although doubtless many English travellers on the Continent manage to smuggle small supplies into this country, it is sufficient to say that such importations are perfectly illegal, and cannot be brought in to any appreciable extent. Baron Tauchnitz takes every possible precaution to prevent copies coming to this country: perhaps a more strict examination of passengers' baggage by Customs officers would be desirable; probably, however, these officers only trouble themselves with articles liable to duty; books are not.

As to the *advisability* of admitting such reprints, that is a question raised only by theorists possessed of notions almost too transcendental for a practical man to deal with. "The greatest good of the greatest number" is a political axiom which scarcely implies that the greatest number is to obtain this good by plundering the few!

As it happens, however, that her Majesty's Board of Trade entertains very lax views on this subject, and advocates the promulgation of cheap literature at any sacrifice of its producers, it may be that her Majesty's Customs officers are imbued with the same views, and would nod or wink approvingly at a bundle of Tauchnitz under the arm of an enterprising traveller.

The injustice of such a proceeding as that of admitting cheap reprints into England to compete with English editions, must be obvious to all who are not imbued with M. Proudhon's celebrated socialist theory that "*Property is robbery.*"

A common mode of proceeding between author and publisher is that the author sells his work, or a share of it, or a first

following remark: "By the Act of 1875, the colonists are allowed to reprint English books, *with the authors' consent*, for their own consumption, *and for any market which they can obtain outside the United Kingdom.*" The reviewer should have said, "*outside all other British dominions.*" Because, although the Imperial Act says it shall be unlawful to import such reprints *into the United Kingdom*, it further states that in other respects the said Act shall be governed by the Copyright Act (5 & 6 Vict.), which treats such books "in the same manner as if they had been reprinted out of the British dominions."

edition, to his publisher, reserving to himself the right of any benefit he can obtain from reprints or translations abroad, it being fully understood that such reprints are intended *only* for circulation abroad. The publisher then takes upon himself all the risks and costs of producing the work, and pays the author an agreed price, which, in case of books worth reprinting abroad, is a pretty high one, and he fixes his selling price precisely at what he conceives would be most likely to protect himself from loss; for in three cases out of four, loss is the probable result. A publisher is content if he can feel himself secure from being too severely mulcted. He takes his risk deliberately and with abundance of experience to guide him, hoping that at least one out of the four shots he fires at the uncertain public may hit it in a tender place and cause a *run* which will remunerate for powder and shot wasted on the other three.

The theorists comfort the author by telling him that he would be benefited, rather than injured, by the admission of colonial reprints, inasmuch as he could exact a very much higher price from abroad than he can now; and so, truly, he would, for any Colonial or Continental publisher would be delighted to pay him much more if they had English pastures to feed upon as well as their own.

But would English publishers continue to pay him as much? Would any publisher in his senses pay an author largely and expend money in the production of expensive books with such palpably dishonest competition staring him in the face?

According to the Commissioners' Report:—

“The arguments of the Secretary of the Board of Trade in favour of admission of colonial reprints are based on considerations of the public interest, which is alleged to be greatly injured by the high prices at which books are now published—prices that are altogether prohibitory to the great mass of the reading public; and it is said that if the cheaper colonial editions were to be allowed in this country, the necessary effect would be that prices generally would be greatly reduced.”

It is also urged that this same British public is grievously wronged by being “debarred from participating in the advantages of cheap colonial editions.” In the existing state of things,

I think it may fairly be said that of all the books printed in Great Britain not 5 per cent. are reprinted in the colonies and on the Continent (I have classed Tauchnitz's editions with the colonial, although the theorists apparently do not), and I venture to say boldly that the effect of such importations on the prices generally of other books would be absolutely *nil*, nor could the importation of reprints under any conditions affect the price of books *not* so reprinted. The high or low price of books depends upon an almost infinite variety of things, and, not the least, upon the caprice of the public, which will buy large editions of books at 21s. or 42s. and oftentimes refuse to touch a cheaper edition at 10s. or 12s. or less.

The advocates of "cheap literature" find a strong argument in the fact that three-volume novels are sold at the high price of 31s. 6d.; but the argument loses its value when it can be fairly stated that the only purchasers of these works are the circulating libraries, and if ever Mr. Farrer's pet, that "many-headed monster," the public, invented anything, it was the circulating library system, simply because it prefers borrowing to buying. At all events, publishers did not invent the system; they would greatly prefer being certain of selling 5000 or 6000 of a work at 5s. or 6s. to the public, to selling 400 or 500 in three vols. at 31s. 6d. to the libraries. The truth is, the three-volume form is the crucible by which the public tests, not always or specially the literary value of a work, but its suitability and adaptation to its shifting tastes. If a work takes well in three volumes, it does not always follow that it will sell in a cheap form, but it is *some* guide for a publisher; if a good book fails in three volumes, its chances in a cheap form are gone. On the other hand, this curious public will not buy an original novel, however good it may be, in a cheap form on its first appearance. Some time ago a great outcry was made against this library system, and publishers, always ready to make experiments for the good of the public, sorely burnt their fingers by bringing out novels in one volume instead of three, and at 5s. or 6s., instead of 31s. 6d.; the experiment has very rarely succeeded.*

* *This outcry is spasmodic; it comes out annually about the time of the "big gooseberry!" but nothing ever comes of it! (1887.)*

But, says Sir Charles Trevelyan, the public wants its cheap literature "*fresh and fresh*" from the author's brain—and thus fresh and fresh it could have it—but Sir Charles gauges all books by Macaulay's works, which happen to be his own property, whereas the great hungry public is uncommonly dainty in its tastes; and of the hosts of books offered to it first fresh and fresh *in a cheap form*, it chooses but a very small portion until time has tested their value.

In fact, it would seem after all that the great public is in these matters more discriminating than its would-be instructors. Instead of wanting new books "*fresh and fresh*," however cheap, it prefers to wait, and give a book the test of time before buying it. By the time a novel or any other expensive book has percolated through the circulating libraries, its character has become known: if it suits the public, it will demand and get it, in a cheap form; if not, it dies.

Whether the library system is a good or an evil for the community, it is not for a publisher to judge. It is evidently a system liked by the community; it certainly enables readers of every class to read expensive books handsomely printed, with large type and good paper, at a merely trifling outlay—books which from their expensive nature could only be procured at a high cost per copy.

French and German publishers produce original novels for their public "*fresh and fresh*," and cheap enough, without the spur or goad of a "*royalty system*" to induce them—they simply follow the tastes of their readers; English publishers do the same—all they ask is to be let alone.

As to the imaginary "*wrong*" thus inflicted on the hungering and thirsting British public, let them rest assured that English publishers are always ready and willing to supply them with as cheap and better editions whenever this hunger and thirst are sufficiently manifested to enable them to enter upon the speculation without undue risk to themselves; and in point of fact they do so now, as all the book-shops and railway stalls in the country abundantly testify.

There is some satisfaction in finding that the Commissioners, with one or two exceptions, do not indorse this proposition; out of deference, however, to its proposers, they "*think that such*

works should not be admitted *without the consent of the copyright owners!*" This is sufficient; no author will consent to his own destruction.

If the Board of Trade can legislate profitably for such a public, it should certainly take under its protecting wing the entire production of the works of British authors, and extinguish publishers altogether.* Authors would then write their books to order, and on *the royalty system* (to which reference is made further on), and the intellectually starving public would doubtless be abundantly supplied with Board of Trade literature.

Until, however, that improbable period arrives, the less the Legislature interferes with the business enterprise of publishers, and the more strictly it confines itself to the due and proper protection of literary property, the better it will be for all concerned.

THE ROYALTY SYSTEM.

Sir T. H. Farrer and Sir Louis Mallet are smitten with the idea that the present system of publishing is a *bad* one. They, though grudgingly, throw a sop to authors, but the "parasitic growth of the publishing interest" with which authors are "so inextricably intertwined" is strongly denounced, under the cry of "*monopoly*."

The *Royalty System*,† we are told, is—

"The only method by which the interest of the author can be

* This is one of the "dreams of the future" indulged in by the INCORPORATED SOCIETY OF AUTHORS, 1887.

† By this "*Royalty System*" is meant that authors shall be paid a royalty on all copies sold, and that when the book has been once published, it shall be open for all publishers to take it and print it, subject always to payment of a fixed royalty. Thus, if publisher No. 1 publishes at 10s., and the royalty is 10 per cent., the author will get 1s. for every copy sold; No. 2 may publish at 5s., and the author would get 6d.; No. 3, at 2s. 6d., which would give 3d. to the author. No. 1 may have expended a large sum in advertisements, corrections, and arrangements generally; he may even spend a large amount in illustrations, all of which expenses No. 2 and No. 3 would save, and thus No. 1's edition would be ruined—truly "an effectual way of disengaging him from the author." The author's chief difficulty would be to find publisher No. 1.

effectually disengaged from that of the publisher, and it is contended that under the operation of free competition between publishers the author and the public would be alike benefited—the first by an extended circulation of his works, and the second by a reduction in their cost.”

A “royalty system” as between an author and his publisher is a very common and convenient arrangement; but *the royalty system* proposed above is a different matter. It is one which binds authors hand and foot, and reduces enterprise to one dead level; it places all authors, big and little, celebrated and unknown, on the same footing; and instead of “leaving publishers to their own devices” and their profits to be “regulated and controlled by the ordinary laws of trade,” it leaves them without a motive to compete for the works of good authors; it expects them under all circumstances to comply with one general rule, to invest their capital in all cases alike in paper, print, and author’s royalty, quite irrespective of profit or loss to themselves on the venture. To this risk is to be added the additional one, that should their venture be successful their first efforts and outlay are to be paralysed by being immediately reprinted upon by their neighbours. If the book should prove a failure, the first publisher will have the honour and glory and *loss* all to himself. Not till his venture has given unmistakable signs of success will *parasites* Nos. 1 and 2, and so on, interfere with him.

So naturalists observe, a flea
Has smaller fleas that on him prey;
And these have smaller still to bite ’em,
And so proceed *ad infinitum*.”—*Swift*.

This indeed is “monopoly” in disguise—monopoly on the part of the great unconscious public, which would thus commence its attack upon “the ordinary laws of trade” by which publishers are at present governed. When the Legislature is able to regulate the supply of coals to the starving, bread to the hungry, and clothing to the naked, then it may think about controlling the supply of food for the mind.

The celebrated cheque of £20,000 which Messrs. Longman once paid to Lord Macaulay is a favourite illustration of the

theorists as to the way in which an innocent public is pillaged by monopolising publishers and authors. This being an event occurring perhaps once in a century is quoted as though it were a good instance of a common occurrence; and again, 'Macaulay's Life' * is usually brought forward as an illustration of the dearness which monopoly creates, compared with the cheapness which would exist if publishers were compelled by law to convert their respectable quarters into bear gardens for their own destruction, and the amusement and instruction of the hungry British public.

One cannot but admire the zeal, the energy, and the very great ability which Sir T. H. Farrer has brought to bear upon his hobby. His array of facts and statistics is overwhelming, and his theory most ingenious. It must also be admitted that the Essay appended by Sir Louis Mallet to the Commissioners' Report shows a masterly grasp of the subject; but most assuredly there must be this fallacy underlying and making unstable their whole structure, viz., forgetfulness of the fact that all authors are *not* Macaulays, and that many a good book worthy of a better fate *has never paid its expenses*.

The only conclusion one can come to with reference to the theory which would by law compel publishers to adopt the *royalty system*, or not publish at all, would be that the same law should at least protect them *from loss* by competition on any venture, but this would be a *reductio ad absurdum*. If you take a book and print it, the risk is yours—

"Guvment ain't to answer for it,
But will send the bill to you."

On the other hand, publishers are perfectly willing to take reasonable risks on the chance of making reasonable profits; and but for their enterprise it may safely be averred that

* A notable instance to the contrary may be mentioned in *Lord Beaconsfield's Novels*. Some years ago these were published in the cheapest possible form at *one shilling each*, but the public did not care about them. After helping to ruin their publisher, they died out, whereas the handsome edition which Messrs. Longmans are now publishing at 6s. a volume is an immense success! This is only another proof that publishers may be safely trusted to supply public wants.

thousands of good books, which have interested, instructed, and amused the public, might never have seen the light.

There is no existing law to prevent authors adopting *this* royalty system—why have they never tried it?!!

The *International Series*, which is the direct result of the present system of so-called “monopoly,” is quoted by Sir T. H. Farrer and Sir Louis Mallet as a marvellous instance of what publishers could do “an’ they would” to meet the wants of the public, and as an example also of what they would be compelled to do if the *royalty system* were in vogue.

Nothing can be more disingenuous than the way in which the argument is used, both by Sir T. H. Farrer and Sir Louis Mallet, in opposition to those who object to the royalty system. Sir T. H. Farrer says with reference to this series:—

“The price is moderate, and the remuneration to authors, viz., 20 per cent. of the retail price, is said to be liberal, as compared with the ordinary custom of the trade, and these books are published from the same stereotype plates both in England and America. *Some of them, I presume, have copyrights in America*, being written by American authors, most of them by European authors have not. None of these books ever come back from America to this country, at least, I believe not, and what is the reason? Not simply the law which prevents them, but the fact that they actually cost more in America than they do in England.”

The inference drawn by Sir T. H. Farrer is that cheapness of price is sufficient, without any law to keep out foreign reprints.

Now there is absolutely nothing in the *International Series*, excepting the fact that it is *international*, to distinguish it from scores of other series produced by English publishers at equally low or even lower prices for which authors are equally well paid. The difference betwixt this series and others, is that it enjoys, by an ingenious operation of the publishers, *copyright in both countries!* For there is little doubt, notwithstanding Sir T. H. Farrer’s inference to the contrary, that European authors do get for these particular books a protective copyright in America, by the device of getting an American author to write some insignificant, but mysterious portion of the work. If this is so, then the very fact that these books have the entire

run of Great Britain and America, *protected by law*, is not merely a reason why the price should be low, and authors' profits high, but also an admirable argument for the desirability of a straightforward international copyright law between the two countries, but is no support whatever of the argument used by Sir Louis Mallet that—

“It is difficult to admit that a publisher who can afford to give 20 per cent. to an author *without fear of being undersold by a rival publisher, who is not obliged to pay anything*, could be deterred from this undertaking by a system which compelled his rival equally to pay 20 per cent. to the author.”

In this case it appears 20 per cent. goes to the author from both European and American publishers *because they have no rivals*.

It may be difficult for Sir Louis Mallet to admit this; but it presents no difficulty to a publisher. When a publisher projects an important series of books, he gives hours of his best time, all his long-bought experience, and hundreds of pounds for advertising, before the first volume is issued. When this is done under “the royalty system” a rival is to step in and appropriate the benefit.

If, however, this *International Series*, of which such a strong point has been made, had been unprotected by copyright on either side, or had it been subject to the rivalry of all other publishers under the *royalty system*, it is a fair question to ask Sir T. H. Farrer and Sir Louis Mallet: *Would Messrs. Henry S. King & Co. ever have dreamt of producing such a series at all?*

Here is another notable instance. The late Mr. Weale expended over £100,000 in the production of the admirable cheap scientific series known as *Weale's Series*. Would he have expended a penny of it under the *royalty system*—knowing that I and a dozen other publishers might have pounced upon the best of the volumes at once?

After all, it is difficult to understand why so much should be said about “the wants of the public”! “Why,” as Dr. Chalmers once said, “the public's nothing better than a great baby!” It does not *create* literary wants. These wants are created for it—first by authors, then by publishers, who now

wholesomely compete (and the competition is keen enough) to give all kinds of provender at all kinds of prices, but who, under the unjust royalty system, would be subjected to a miserable hole-and-corner warfare, and the most unwholesome kind of underhand competition, such as no self-respecting publisher—no free-born Englishman—could submit to.

Fortunately the Commissioners "are unable to recommend for adoption this change in the existing law." As, however, the Commission itself, if it was not originated from the representations of the *Board of Trade*, was promoted by it, and as that body holds that the *royalty system* is the true one for the future, and Sir Louis Mallet indorses this opinion, there can be little doubt that the Bill, when introduced to Parliament, will find itself clogged and delayed by an amendment on this subject.

AUTHORS AND PUBLISHERS.

This is a subject difficult for a publisher to approach or to treat without, perhaps unconscious, partiality. Authors may be said to have invented publishers; but there was a time when authors and books and readers were so comparatively few that publishers were not indispensable. Dryden's 'Virgil' was published by subscription, and Pope made a large sum by dealing direct with the public, and getting the subscriptions in full through the unremitting exertions of his friends; but even he could not do without the intervention of a publisher. Dr. Johnson saw, as Charles Knight remarks, "that the time for that mode of seeking the just rewards of authorship was passing away." "He that asks subscriptions," says Johnson, "finds that he has enemies." "Thus the system came to be regarded as undignified, and the author left the trading part of the operation to the publisher. Though the rewards of literary labour might be less, it was deemed better to take the broad road, which saved a writer from humiliation and commercial liability."

In these latter days when publishers have become a considerable power in the land, a "Society of Authors" has been incorporated, and one cannot help feeling amazed at the bitter feeling it dis-

plays towards all publishers. One of its first and main objects seems to be to guide, investigate, and be a check upon the operations of publishers, and at some future time to dispense with them altogether, "undignified" as the result may be. The old author-publisher, whose name I have just mentioned, says that some clever writers "represent publishers as born to realise the converse of Pharaoh's dream, that the fat kine should devour the lean kine," which is just what the "Society of Authors" says of them to-day. "If authors and publishers understood their mutual interests there would be little distinction between the lean kine and the fat, and they would equally flourish on the same pastures."

In fairness to "The Society of Authors," it must be said that in co-operation with "The Copyright Association" (which embraces many leading publishers), it has done excellent service in bringing about "The International and Colonial Copyright Act, June 25, 1886," which will be found in the Appendix; whilst in directing its efforts to the accomplishment of the long hoped-for copyright with America it will be most usefully and worthily employed.* There are also, doubtless, many ways in which it may and will make itself useful to authors, but it is difficult to see that one of those ways is to make as its leading object a direct attack upon publishers as a class; one would rather have thought that the interests of both were so much mixed up and so identical, that a wiser object would have been to cement and encourage a feeling of brotherhood and goodwill. If there was a time when, as Lord Camden puts it, great men "wrote not for gain, but to delight and instruct the world," it is to be feared that such a time is not the present, and such men are uncommonly scarce nowadays. What a fine time it would be for publishers if all authors treated gain with the fine scorn which led Goldsmith to say that "The author who draws his quill merely to take a purse, no more deserves success than he who draws a pistol." As a matter of fact, authors in these times, although they write for fame, do not, nor is there any reason why they should, scorn the commercial aspect of their productions; those amongst them who have once gained the ear of the public, very properly make the best possible bargain for themselves with

* The "Bill to consolidate and amend the Law relating to Copyright," now before Parliament, is also largely due to its efforts (see Appendix).

those who present their works to the public. Horace (less magnanimous than Goldsmith) made it a matter of complaint that his publishers got gold while he got only fame.

The word "author" is an uncommonly comprehensive one, for it embraces members of all classes of the community, from the most scurrilous scribbler to the profoundest philosopher—from the maker of a nation's ballads to the balladmonger of the street—a rather heterogeneous mass for a "Society of Authors" to take under its wing, and one can hardly think that with such material to deal with the Association can really, with any effect, place itself between authors and publishers, draw up schemes, and dictate terms and methods of publication which publishers must necessarily accept. One cannot help feeling that such an attitude bears on the front of it its own futility. At best it could only be an elaborate system of machinery, kept constantly going to provide for rare and isolated cases—a big wheel always kept revolving for the sole object of crushing an occasional moth.

Authors may be divided into two classes—the successful and the unsuccessful, and it may not be too bold a thing to say that they are capable of another division—the honest and the dishonest. "The Society of Authors" has been lavish in its expenditure of wrath on the dishonesty of publishers as a class; but what publisher has not abundant experience of authors who draw money on false pretences for work never executed, and never intended to be executed? Successful authors certainly do not stand in need of a "Society of Authors" to help them; wholesome competition amongst publishers, whenever they choose to put themselves up for competition, will always enable them to command their own terms.

Young or unsuccessful authors may well seek advice from such an Institution, and here the "Society of Authors" might confer a distinct benefit, by carrying out what was foreshadowed at the last conference,—by reading and advising on authors' manuscripts; and if it could really "stimulate and develop a taste for buying books," it would certainly be doing good service. "Plus on lit, plus on lira, plus il faut, plus il faudra des livres," said an old French bookseller. A Society that could bring really powerful influence to bear in the discouragement of commonplace and mediocre authorship, and in the encouragement of the purchase of good wholesome literature, would really be invaluable, and one can

only hope that this "*Society of Authors*" will gradually develop into "an organisation for extinguishing bad and fostering good literature." If in pursuit of this aim it should in the distant or immediate future, by force of superior virtue, succeed in extinguishing publishers too, so be it. In that event the "*Society of Authors*" will necessarily become one great central publishing concern, with arms, wings, and legs spread all over the community, but with working ramifications that can hardly be conducted without expenses, which somehow or other must be paid before net proceeds get into the authors' pockets; and possibly the wrongs to which they are now exposed by dishonest publishers may develop themselves in some other form.

The supposed antagonism of authors and publishers is as old as the days of Dryden and Pope, the Tonsons, Lintots, and Curlls; but this antagonism has always been more imaginary than real. On the whole, it is really astonishing, considering the magnitude of the operations of book-publishing, how rarely disputes of a serious nature occur between authors and publishers.

The various methods of publishing have recently been subjected to the severe criticism of the "*Society of Authors*," and yet they do not and cannot suggest any methods that could be more readily adaptable to all needs—and for the simple reason, that every book that is published must be subject, not to the dictation of one party, but to the agreement of two parties. All that is required is a clear and distinct written agreement between the parties, intelligible by both, and then the matter rests "on a footing of equity." The present modes of publishing have existed in almost unaltered forms from the earliest times, that of sharing profits being perhaps the most customary in the past; and although it has become a fashion lately to disparage and abuse that system, it is unquestionably, and in its very essence, the fairest and most reasonable mode of publishing of any, if the system of strict equity which includes the sharing of profits and losses be excepted. Of course the proportion of share, whether a half or a third or a fourth, which author or publisher is to take, is a matter to be settled beforehand. The reason of its unpopularity is the most unfounded and unwarrantable charge which has found expression in the mouths of the orators of the "*Society of Authors*," that publishers (as a business principle!) conceal from their authors and pocket a large percent-

age of profit, amounting sometimes to 25 per cent. or 30 per cent. over and above what they exhibit in the account rendered to the author. This is certainly a most unjust charge to cast upon publishers generally, and if it is founded upon some special account which has come under the notice of the Association, their charge should have been aimed at the individual, and not at the whole body of publishers.

Here is an example of an account rendered more than a hundred years ago, and it is really a counterpart of such accounts for sharing profits as rendered to-day :—

State of the account of Mr. Gibbon's 'Roman Empire.' Third edition. 1st vol. No. 1000. April 30, 1777.

Printing 90 sheets at £1 6s. with notes at the bottom of	£	s.	d.
the page	117	0	0
180 reams of paper at 19s.	171	0	0
Paid the corrector, extra care	5	5	0
Advertisements and incidental expenses	16	15	0
	<hr/>		
	£310	0	0

	£	s.	d.
1000 books at 16s.*	800	0	0
Deduct as above	310	0	0
	<hr/>		
Profit on this edition when sold	£490	0	0

	£	s.	d.
Mr. Gibbon's two-thirds is	326	13	4
Messrs. Strahan & Cadell's	163	6	8
	<hr/>		
	£490	0	0

The writer of the 'Decline and Fall of the Roman Empire' was perfectly satisfied with his publishers, nor, as it turned out, were the publishers dissatisfied with their venture; but that it was a venture Gibbon himself acknowledged, his own opinion being that "the original impression should have been stinted to five hundred, but the prophetic taste of Mr. Strahan ruled for 1000."

* This was probably a subscription book, in which case the publisher has dealt direct with the public without making any allowance to the trade.

Now let us see how matters would have stood if, of the 1000 copies printed, only 500 had been sold.

	£	s.	d.
<i>Cost of printing 1000 copies</i>	310	0	0
<i>500 books at 16s.</i>	400	0	0
<i>Deduct as above</i>	310	0	0
<i>Profit on this edition</i>	£90	0	0

	£	s.	d.
<i>Mr. Gibbon's two-thirds</i>	60	0	0
<i>Messrs. Strahan & Cadell's</i>	30	0	0
	£90	0	0

It may have happened, and frequently does happen, that of 1000 copies of a work printed, not 200 are sold; in which case it will easily be seen that a heavy pecuniary loss falls upon the publisher. Thus, if only 200 copies had been sold at 16s., only £160 would have been realised by the publisher, out of an outlay of £310, leaving him a loser of £150 by the venture. Then it is that the indignant author, unwilling to acknowledge his own failure, begins to think evil of his publisher, accuses him of want of "push," and insinuates that after all he has protected himself by some secret profit, and will scarcely believe him when his accounts are all laid open for his inspection.

The table on p. 47 may be taken as the model of an account for sharing profits as we should render it now, for a book published at 14s.:—

This shows a statement of affairs which I believe to be absolutely correct; if any author wishes to examine all the details, he can see every one of them, even to every line of which the advertisements are made up; but to furnish every item in detail of the hundreds of accounts one has to render would only tend to befog the author and be, in fact, an impossible and useless labour.

There are other methods of publishing which circumstances might render of service, but which cannot possibly be controlled by any "Society" that is not in itself capitalist as well as adviser. The most simple plan is unquestionably the purchase of copyright, by which method all difficulties are finally settled.

<i>To drawing and making blocks for illustrations</i>	£	s.	d.
<i>To printing 1500 photographs</i>		4	7 0
<i>To printing 1500 Copies</i>		6	11 0
<i>Composing 14 sheets @ 42/</i>		29	8 0
<i>Extra for small type, &c.</i>		3	15 0
<i>Author's corrections and making up from slips</i>		16	13 0
<i>Working 14 sheets, 42 reams, @ 11/</i>		23	2 0
<i>Paper for ditto 42 reams @ 22/8</i>		72	18 0
<i>Binding 1350 copies @ 62/ per 100</i>		47	12 0
<i>" 12 travellers' samples</i>		41	17 0
<i>Registration, France and Germany</i>		0	7 6
<i>Postage of Review and gratis copies</i>		0	10 0
<i>Printing circulars and prospectus, including postage</i>		0	8 8
<i>Advertising</i>		8	4 8
<i>Incidental expenses 7 1/2% on expenditure</i>		44	4 7
<i>Balance forward</i>		17	0 6
		291	4 5
		<u>£535</u>	<u>5 4</u>

<i>Half share Author</i>	145	12	3
<i>" Publishers</i>	145	12	2
	<u>291</u>	<u>4</u>	<u>5</u>

<i>1500 printed.</i>			
<i>150 quires } on hand.</i>			
<i>35 cloth }</i>			
<i>39 Review and gratis.</i>			
<i>5 British Museum, &c.</i>			
<i>235 6 Author gratis.</i>			
	£	s.	d.
<i>Sales 1265 as 1168 @ 9/4</i>	545	1	4
<i>Less 5% allowance off 420 copies to agents, exporters, &c..</i>	9	16	0
	<u>535</u>	<u>5</u>	<u>4</u>

By balance forward 291 4 5

A third method is that which is known as the "Royalty system," which seems to find considerable favour. It is most satisfactory in this respect, that it does away with the need of elaborate account-keeping, as between author and publisher; all that has to be shown is the number of copies sold on which the royalty is payable. The amount of that royalty is of course a matter of agreement. The unsatisfactory part of it is that the author has no interest in the cost of the venture; and he is, in such a case, very apt to urge on his publisher a very large expenditure in advertisements, &c., which frequently swamp the publisher's profit without in the least affecting the author. In America the amount of royalty is usually 10 per cent. Mr. R. R. Bowker, of New York, in his most useful book on Copyright, says, with reference to this American method, "The 'half-profits' system is apt to lead to much misunderstanding as to the actual expenses (e.g. general office expenses of a publisher) to be deducted before profits are reckoned, and the American 10 per cent. system is on the whole most satisfactory. The publisher does not, as is sometimes naïvely assumed, get the other 90 per cent. as profit; he gets the difference between the returns from the trade or public on copies actually sold—averaging perhaps two-thirds of the 'retail price' on which the author's 10 per cent. (really thus 15 per cent.) is reckoned—and the cost of making the entire edition, and of advertising and marketing the book. The author, in any event, gets a return proportioned to the success of his book. If its sales are small, the publisher makes a loss; if large, the publisher makes a profit, increasing proportionately with each extra thousand sold." Mr. Bowker adds, truly enough, that "It is by means of this profit that the publisher is able to take risks with new books and new authors," and he only confirms English, French, and German experience, when he says, that "of five books three fail, one covers its cost, the fifth must pay a profit to cover the rest. . . If the author complains that his successful book ought not to pay for others' unsuccessful books, he can get over the difficulty by taking the risk himself."*

This brings us to a fourth system of publishing, viz., that of publishing on commission, in which case the author pays all

* This "royalty system" is quite a different matter from that proposed by "The Board of Trade," see ante, page 36.

expenses and takes all profits or all losses, as the case may be, the publisher merely receiving the books ready-made from the author, selling as many as he can at an agreed price, and handing over proceeds to the author, less his commission, usually about 15 per cent. The chief objection to this plan is that it generally applies (though of course with some notable exceptions, such, for example, as Mr. Ruskin's works) to books that had far better never have been published at all. If a publisher has not sufficient confidence in a book to invest money in it, and the author is prepared to take all cost and risk himself, then it comes about most frequently that the author makes a heavy loss and is tempted to cast all the blame on the supineness, or want of push, energy, or tact on the part of his publisher, who really gets nothing but trouble and vexation by the transaction, for if no sales occur there cannot possibly be any commission. "The Society of Authors" assert that in such instances a publisher improperly puts a profit on the production of such works, but that is an argument which cannot be seriously urged.

If an author wishes to have his work published on commission, it is his business to deliver the work to the publisher, ready bound for sale. If instead of doing so, he asks his publisher to take all this labour off his hands, the latter must assuredly be paid for his trouble, not out of his doubtful future gains from commission as a publisher, but just as a manufacturer in every other department of commerce has to be recompensed for the advantages which belong to trained capacity, knowledge, experience, and skill.

In such a case the author would be quite justified in getting an estimate beforehand, but he may with as much fairness claim vouchers from the printer and binder to show what wages they paid and what profit they made, as expect his publisher (who now is really his printer and binder) to show him his net profits. I may with equal justice demand like information from my tailor or bootmaker.

Such are the chief methods available in agreements between authors and publishers, but they are, as a matter of fact, always open to modification. At the same time it is preposterous for any "Society" to lay down hard and fast rules from which there can be no appeal. Publishers are open to conviction, but, like other mortals, are inclined to resent coercion; and agreements drawn

up by "experienced hands" on "fixed principles," but purely in the interests of authors, will remain a dead letter if the other party to the bargain declines to sign.

INTERNATIONAL COPYRIGHT WITH AMERICA.

"Hoc opus, hic labor est!"

When Copyright, the youngest son of Civilisation, sprang into existence, *perpetuity* was inscribed on his brow. Common sense and common law alike respected him, and he grew and flourished apace; at length pirates broke into his house and plundered him; eminent lawyers, unable to break his heart, attacked his freehold; his "right to exist" was questioned, mud was thrown at him, and his coat, if not his character, was tainted and much damaged. Statute law did recognise him, clipped his wings, struck *perpetuity* from his forehead, and sent him forth into the world, a stained, mutilated, protected thing. He would surely have died, but for the eternal principles of truth and justice in his heart.

The leading nations of Europe adopted him, first *nationally* then *internationally*, but in the latter case only after clipping his wings still more closely.

(*The New International Act, 1886, has placed International on the same footing as National rights.*)

America alone amongst the great nations of the world has declined to acknowledge him us an *alien friend*, but has naturalised him as a *citizen*!

The great principles of right and justice which lie at the root of copyright have been so mangled by lawyers, and so torn and frittered by sentimental theorists on the one hand, and so hidden and lost sight of by expediency, so over-ridden by the fanciful but supreme demand for "cheap literature" by the people on the other, that negotiation with the United States seems to be as far off as ever.

I have certainly no desire to be unjust to American publishers; they could not be expected to be the first to discover in the little beggarly foreign bantling yclept *Copyright*, so abused and mangled at home, any inborn quality which should

induce them to outstep the limits of the laws of their country in order to pay him respect.

In point of fact, however, it should in fairness be stated that with this practice has grown up another, by which English authors do get paid, and sometimes very handsomely, when they send out proof sheets prior to publication.

These two systems have received a severe blow. The charming code of honour has been rudely torn, and now almost every English book recently brought out by publishers on the East Coast of America, whether by arrangement with the author or not, has been immediately reprinted by publishers in the West!

“For ’tis the sport to have the engineer
Hoist with his own petard!”—*Hamlet*.

Possibly this innovation may form the strongest argument that has yet been brought to bear upon the practical American mind to induce it to consider once more the project of an International Convention. Hitherto American publishers have laboured to convince the American Legislature that the education of the people would seriously suffer if such a law ever came into operation.

It is supposed that American publishers under these altered circumstances have considerably modified their views, and would prefer sharing their profits with English authors under protection, to sharing them with their Western brethren under no protection; if this be so, they will have no difficulty in inducing the American Legislature to acquiesce, under the full assurance that no American interest shall be affected thereby—they will concede a one-sided reciprocity, which, whilst it grants copyright, is to protect commercial interests.

It is to be feared, however, that if the commercial side of the question is still to be considered in legislating on the subject, so many projects and schemes will be superadded to the very wide concessions proposed by the Commissioners as to render the solution as difficult as ever.

(“Commercial interest” still blocks the way. American publishers are now nearly unanimous in their desire for international copyright, but many of them still insist that “reciprocity” shall be weighted by a “manufacturing clause” wholly in their favour.)

I presume I shall not find much sympathy with other publishers when I frankly express my belief that many of the complications and difficulties which surround the question of copyright, national and international, have arisen from the groundless jealousies and needless interposition of publishers and manufacturers of books.

Primarily an author of a book, being the proprietor, is the only person in whose behalf the State should legislate; the only true solution of this important and vexed question is to reduce it to its utmost simplicity.

Let the United States Legislature follow the example of France, which has already been pointed out, viz., grant copyright to every foreigner who publishes in America, without reference to time or nationality, which could be done, as was long since pointed out by Mr. Daldy, by the simple substitution of the word *author* for *citizen* in their Copyright Act—no convention would be needed in such a case; or if such noble simplicity is too much to be expected at once from a country unaccustomed to grant anything, then let them limit the grant by convention to nationalities agreeing to confer similar privileges on American authors, leaving commercial arrangements to regulate themselves, as they soon would do if unfettered by legal formalities.

These are suggestions to solve the difficulty too simple to be hoped for, but once accomplished they would settle all difficulties naturally, and the value of English copyrights in America and American copyrights in England would be governed by the wholesome competition of men who could act with a feeling of certainty that their dealings would be placed upon the same sound basis as other mercantile transactions, rather than, as at present, on the basis of legalised piracy.

Since these lines were written in 1879 several schemes have been proposed to and by the American Government: the first of these is known as "The Harper Draft," which in the absence of something more simple and direct met with general approval, and would probably have been accepted on this side, on the principle that half a loaf is better than no bread. Its one vitiating clause was this: "The author of any work of literature manufactured and published in the one country shall not be entitled to copyright in the

other unless such work shall be also manufactured and published therein, by a citizen or subject thereof, within three months after its original publication in the country of the author or proprietor the word "manufacture" not to be held to prohibit printing in one country from stereotype plates prepared in the other and imported for this purpose."

This "Harper Draft," as Mr. Bowker informs us, was submitted in September, 1880, by Mr. Lowell to Earl Granville, who replied, March 1881, that "the British Government favoured such a treaty, but considered an extension of the republication term to six months essential, and to twelve months much more equitable." Both President Garfield and Secretary Blaine were understood to favour the completion of a treaty; but with the death of Garfield the matter ended for the time.

The question was revived in 1884, when, on January 9, Mr. Dorsheimer of New York introduced his Bill for International Copyright, which provided for the extension of copyright to citizens of countries granting reciprocal privileges so soon as the President should issue his proclamation accepting such reciprocity for the life of the author or for twenty-five years, providing he should live longer than that time. The latter clause was amended in committee, extending the copyright term to twenty-eight years without regard to the decease of the author.

This honest and satisfactory Bill was thrown out, mainly, it appears, owing to the opposition of those who insisted on the insertion of the re-manufacture clause. Mr. Bowker states that "The Publishers' Weekly," in March, 1884, sent out a circular letter of inquiry, and the result showed a general desire on the part of American publishers in favour of International Copyright. Of fifty-five leading publishers who answered, fifty-two favoured and only two opposed International Copyright; out of these twenty-eight advocated International Copyright pure and simple, fourteen favoured a "manufacturing clause." Congress adjourned without taking action.

"President Arthur, in his message of December, 1884, put himself on record as favouring copyright on the basis of reciprocity. The Dorsheimer Bill was re-introduced by Mr. English, January 5, 1885, and on January 6 Senator Hawley introduced The Hawley Bill into the Senate. This Bill covered all copyright articles, while

Mr. Dorsheimer's was confined to books—it gave copyright on a basis of reciprocity for books or other works published after the passage of the Bill by repealing those parts of the Revised Statutes confining copyright to citizens of the United States or residents therein.” No action was taken on either Bill.

In his first Annual Message, 1885, President Cleveland referred favourably to the negotiations at Berne, and, on the opening of the forty-ninth Congress, two Bills were introduced into the Senate, that of Senator Hawley, December 7, 1885 (being essentially his Bill of the previous year), and that of Senator Chace, January 21, 1886. Up to this time nothing has been done with either of them.

TRADE-MARK—PERPETUAL RIGHT IN A “TITLE.”

In the absence of International Copyright an ingenious American publisher, Mr. Dana Estes, has discovered a method (better than copyright) of securing to himself perpetual right in an English work entitled “Chatterbox.” The story is rather amusing, I therefore think it worth quoting in Mr. D. Estes' own words, as given in his statement before a committee on “The Hawley Bill.”

“I, gentlemen, am the publisher of the only foreign book that ever had the benefit of the protection of American law. By a series of accidents perhaps, and perhaps some skill, I have the right under American law—not statute law, but common law—of publishing the book I hold in my hand in this country. It is called “The Chatterbox.” I will give you a little history of the case so as to show the bearing on the question of whether it will raise the price of reprinted books. This book began to be published as far back as 1868. It was published until 1878, and imported in considerable quantities into this country. It sold at the very minimum price of seventy-five cents, generally from ninety cents to a dollar at wholesale. I am dealing wholly with wholesale net prices in this statement. In 1878 I ordered a quantity of these books as a bookseller, from the London publisher, in July or August. He sent them to me. I said to my agent there, ‘I want you to provide that I may have a great many more if I may sell them later.’ He sent word back immediately, ‘You can have only what you ordered the first time. You are so late that I had to expostulate to get these.’ . . . I published the book myself. I went to work, made the plates, cuts, illustrations and everything, and printed and published that book, an edition of 20,000 copies. It has been enormously successful. A good many copies were brought in here, and it was considered a very cheap book at seventy-five cents to a dollar. I printed my edition and immediately wrote the publisher detailing the circum-

stances of its publication. I printed the book (because, I beg you to understand I am not a great American pirate), and I told him if he would send me over his stereotyped plates hereafter and give me his authorization, I would continue to print the book and pay him a royalty of threepence a copy, and that I was convinced that he could get more advantage than from exported copies, and that it would be an advantage to me and an advantage to the American public by giving them a cheaper book. He did not assent immediately. I printed the book again the next year. In 1880 he did accede to my proposition. He assigned me all his rights and title in America to not only the book, but, as I required him, to the trade-mark of the word "Chatterbox." Then another person, thinking I had a very good thing, one of these ubiquitous pirates, printed the book. I brought a suit against him for infringing the trade-mark of the gentleman on the other side of the water, and the United States Circuit Court, after a long hearing, gave me a verdict enjoining the party perpetually from printing the book, and immediately upon that I put the book into the market. . . .

"The result has been this: I sell the book now in various forms and prices, varying from forty to sixty cents, instead of from seventy-five cents to a dollar. I use an average of about one hundred tons of American paper manufactured in this country in the production of that book per annum. I sell the book cheaper than the other man did, and I furnish a large number of printers and binders with work, and pay that gentleman threepence a copy, which amounts, at various times, to from three to five thousand dollars per annum, which he gets as his moiety of the profit, and I get a good, handsome residue myself."

The TRADE-MARK, it must be remembered, covered the Title only, but in this instance the Title was everything. The contents of the volume could doubtless have been taken by any other American publisher and issued under another Title.

INTERNATIONAL CONVENTIONS—ORIGINAL WORKS.

Original foreign works under conventions enjoy the full term of copyright of original English works, and all formalities of registration and deposit are to be abolished.

The International and Colonial Copyright Act, June 25, 1886, is now in force so far as our colonies are concerned, and only awaits the ratification of the Berne Convention which will be exchanged next September, when orders in council will bring the treaty into force probably by January next as regards original works and translations.

THE RIGHT OF TRANSLATION AND COPYRIGHT IN TRANSLATIONS.

The conditions upon which authors of any country of the Union, or their lawful representatives, under the above Act and the International Copyright Union, can obtain protection for their works or translations thereof are—

1. *That they shall enjoy in the other countries the rights which the respective laws do now or may hereafter grant to natives.*
2. *The stipulations apply equally to publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.*

(Thus it may be said that whilst an American author—his country not having joined the Union—could not himself acquire the rights conferred by the Convention, his English publisher, by priority of publication, could do so.)

3. *Authors of the Union, or their representatives, shall enjoy in the other countries the exclusive right of making or authorising the translations until the expiration of ten years from date of original publication.*
4. *Such translations, if published within the ten years mentioned above, are protected as original works, and enjoy the same period of protection.*
5. *Works for which the translation rights have fallen into the public domain can be translated by any one.*
6. *Articles in newspapers or periodicals can be reproduced in original or translation, unless expressly forbidden by authors or publishers, which prohibition, as regards periodicals, may be made by notification at the beginning of each number.*
7. *In order that authors may be admitted to institute proceedings against pirates it will be sufficient that their names be indicated on the work in the accustomed manner; or in the case of anonymous or pseudonymous work, the publisher is entitled to protect these rights; nevertheless the tribunals may, if necessary, require the production of a certificate that the formalities prescribed by the country of origin have been accomplished.*
8. *The present Convention applies to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin—subject to stipulations which may be contained in special Conventions either existing or to be concluded.*

(The articles in full of the Convention will be found in the Appendix.)

APPENDIX I.

INTERNATIONAL AND COLONIAL COPYRIGHT ACT.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short titles and construction.
2. Amendment as to extent and effect of order under International Copyright Acts.
3. Simultaneous publication.
4. Modification of certain provisions of International Copyright Acts.
5. Restriction on translation.
6. Application of Act to existing works.
7. Evidence of foreign copyright.
8. Application of Copyright Acts to colonies.
9. Application of International Copyright Acts to colonies.
10. Making of Orders in Council.
11. Definitions.
12. Repeal of Acts.

An Act to amend the Law respecting International and Colonial Copyright.
[June 25, 1886.]

WHEREAS by the International Copyright Acts Her Majesty is authorized by Order in Council to direct that as regards literary and artistic works first published in a foreign country the author shall have copyright therein during the period specified in the order, not exceeding the period during which authors of the like works first published in the United Kingdom have copyright :

And whereas at an international conference held at Berne in the month of September one thousand eight hundred and eighty-five a draft of a convention was agreed to for giving to authors of literary and artistic works first published in one of the countries parties to the convention copyright in such works throughout the other countries parties to the convention :

And whereas, without the authority of Parliament, such convention cannot be carried into effect in Her Majesty's dominions, and consequently Her Majesty cannot become a party thereto, and it is expedient to enable Her Majesty to accede to the convention :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 1.—(1.) This Act may be cited as the International Copyright Act, 1886.
- (2.) The Acts specified in the first part of the First Schedule to this Act are in this Act referred to and may be cited by the short titles in that schedule mentioned, and those Acts, together with the enactment specified in the second part of the said schedule, are in this Act collectively referred to as the International Copyright Acts.

The Acts specified in the Second Schedule to this Act may be cited by the

short titles in that schedule mentioned, and those Acts are in this Act referred to, and may be cited collectively as the Copyright Acts.

(3.) This Act and the International Copyright Acts shall be construed together, and may be cited together as the International Copyright Acts, 1844 to 1886.

Amendment
as to extent
and effect of
order under
International
Copyright
Acts.

2. The following provisions shall apply to an Order in Council under the International Copyright Acts:—

(1.) The order may extend to all the several foreign countries named or described therein:

(2.) The order may exclude or limit the rights conferred by the International Copyright Acts in the case of authors who are not subjects or citizens of the foreign countries named or described in that or any other order, and if the order contains such limitation and the author of a literary or artistic work first produced in one of those foreign countries is not a British subject, nor a subject or citizen of any of the foreign countries so named or described, the publisher of such work, unless the order otherwise provides, shall for the purpose of any legal proceedings in the United Kingdom for protecting any copyright in such work be deemed to be entitled to such copyright as if he were the author, but this enactment shall not prejudice the rights of such author and publisher as between themselves:

(3.) The International Copyright Acts and an order made thereunder shall not confer on any person any greater right or longer term of copyright in any work than that enjoyed in the foreign country in which such work was first produced.

Simulta-
neous pub-
lication.

3.—(1.) An Order in Council under the International Copyright Acts may provide for determining the country in which a literary or artistic work first produced simultaneously in two or more countries, is to be deemed, for the purpose of copyright, to have been first produced, and for the purposes of this section “country” means the United Kingdom and a country to which an order under the said Acts applies.

(2.) Where a work produced simultaneously in the United Kingdom, and in some foreign country or countries, is by virtue of an Order in Council under the International Copyright Acts deemed for the purpose of copyright to be first produced in one of the said foreign countries, and not in the United Kingdom, the copyright in the United Kingdom shall be such only as exists by virtue of production in the said foreign country, and shall not be such as would have been acquired if the work had been first produced in the United Kingdom.

Modification
of certain
provisions of
International
Copyright
Acts.

4.—(1.) Where an order respecting any foreign country is made under the International Copyright Acts the provisions of those Acts with respect to the registry and delivery of copies of works shall not apply to works produced in such country except so far as provided by the order.

(2.) Before making an Order in Council under the International Copyright Acts in respect of any foreign country, Her Majesty in Council shall be satisfied that that foreign country has made such provisions (if any) as it appears to Her Majesty expedient to require for the protection of authors of works first produced in the United Kingdom.

Restriction
on transla-
tion.

5.—(1.) Where a work being a book or dramatic piece is first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, the author or publisher, as the case may be, shall, unless otherwise directed by the order, have the same right of preventing the production in and importation into the United Kingdom of any translation not authorised by him of the said work as he has of preventing the production and importation of the original work.

(2.) Provided that if after the expiration of *ten years*, or any other term prescribed by the order, next after the end of the year in which the work, or in the case of a book published in numbers each number of the book, was first produced, an authorised translation in the English language of such work or number has not been produced, the said right to prevent the production in and importation into the United Kingdom of an unauthorised translation of such work shall cease.

(3.) The law relating to copyright, including this Act, shall apply to a lawfully produced translation of a work in like manner as if it were an original work.

(4.) Such of the provisions of the International Copyright Act, 1852, relating to translations as are unrepealed by this Act shall apply in like manner as if they were re-enacted in this section.

6. Where an Order in Council is made under the International Copyright Acts with respect to any foreign country, the author and publisher of any literary or artistic work first produced before the date at which such order comes into operation shall be entitled to the same rights and remedies as if the said Acts and this Act and the said order had applied to the said foreign country at the date of the said production, Provided that where any person had before the date of the publication of an Order in Council lawfully produced any work in the United Kingdom, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such production which are subsisting and valuable at the said date.

Application of Act to existing works.

7. Where it is necessary to prove the existence or proprietorship of the copyright of any work first produced in a foreign country to which an Order in Council until the International Copyright Acts applies, an extract from a register, or a certificate or other document stating the existence of the copyright, or the person who is the proprietor of such copyright, or is for the purpose of any legal proceedings in the United Kingdom deemed to be entitled to such copyright, if authenticated by the official seal of a Minister of State of the said foreign country, or by the official seal or the signature of a British diplomatic or consular officer acting in such country, shall be admissible as evidence of the facts named therein, and all courts shall take judicial notice of every such official seal and signature as is in this section mentioned, and shall admit in evidence, without proof, the documents authenticated by it.

Evidence of foreign copyright.

8.—(1.) The Copyright Acts shall, subject to the provisions of this Act, apply to a literary or artistic work first produced in a British possession in like manner as they apply to a work first produced in the United Kingdom :

Application of Copyright Acts to colonies.

Provided that—

(a) the enactments respecting the registry of the copyright in such work shall not apply if the law of such possession provides for the registration of such copyright ; and

(b) where such work is a book the delivery to any persons or body of persons of a copy of any such work shall not be required.

(2.) Where a register of copyright in books is kept under the authority of the government of a British possession, an extract from that register purporting to be certified as a true copy by the officer keeping it, and authenticated by the public seal of the British possession, or by the official seal or the signature of the governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession, shall be admissible in evidence of the contents of that register, and all courts shall take judicial notice of every such seal and signature, and shall admit in evidence, without further proof, all documents authenticated by it.

(3.) Where before the passing of this Act an Act or ordinance has been

passed in any British possession respecting copyright in any literary or artistic works, Her Majesty in Council may make an Order modifying the Copyright Acts and this Act, so far as they apply to such British possession, and to literary and artistic works first produced therein, in such manner as to Her Majesty in Council seems expedient.

(4.) Nothing in the Copyright Acts or this Act shall prevent the passing in a British possession of any Act or ordinance respecting the copyright within the limits of such possession of works first produced in that possession.

Application
of International
Copyright Acts
to colonies.

9.—(1.) Where it appears to Her Majesty expedient that an Order in Council under the International Copyright Acts made after the passing of this Act as respects any foreign country, should not apply to any British possession, it shall be lawful for Her Majesty by the same or any other Order in Council to declare that such Order and the International Copyright Acts and this Act shall not, and the same shall not, apply to such British possession, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order; and the expressions in the said Acts relating to Her Majesty's dominions shall be construed accordingly; but save as provided by such declaration the said Acts and this Act shall apply to every British possession as if it were part of the United Kingdom.

Making of
Orders in
Council.

10.—(1.) It shall be lawful for Her Majesty from time to time to make Orders in Council for the purposes of the International Copyright Acts and this Act, and for revoking or altering any Order in Council previously made in pursuance of the said Acts, or any of them.

(2.) Any such Order in Council shall not affect prejudicially any rights acquired or accrued at the date of such Order coming into operation, and shall provide for the protection of such rights.

Definitions.

11. In this Act, unless the context otherwise requires—

The expression "literary and artistic work" means every book, print, lithograph, article of sculpture, dramatic piece, musical composition, painting, drawing, photograph, and other work of literature and art to which the Copyright Acts or the International Copyright Acts, as the case requires, extend.

The expression "author" means the author, inventor, designer, engraver, or maker of any literary or artistic work, and includes any person claiming through the author; and in the case of a posthumous work means the proprietor of the manuscript of such work and any person claiming through him; and in the case of an encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, includes the proprietor, projector, publisher, or conductor.

The expressions "performed" and "performance" and similar words include representation and similar words.

The expression "produced" means, as the case requires, published or made, or, performed or represented, and the expression "production" is to be construed accordingly.

The expression "book published in numbers" includes any review, magazine, periodical work, work published in a series of books or parts, transactions of a society or body, and other books of which different volumes or parts are published at different times.

The expression "treaty" includes any convention or arrangement.

The expression "British possession" includes any part of Her Majesty's dominions exclusive of the United Kingdom; and where parts of such dominions are under both a central and a local legislature, all parts under one central legislature are for the purposes of this definition deemed to be one British possession.

Repeal of
Acts.

12. The Acts specified in the Third Schedule to this Act are hereby repealed

as from the passing of this Act to the extent in the third column of that schedule mentioned:

Provided as follows:

- (a.) Where an Order in Council has been made before the passing of this Act under the said Acts as respects any foreign country the enactments hereby repealed shall continue in full force as respects that country until the said Order is revoked.
- (b.) The said repeal and revocation shall not prejudice any rights acquired previously to such repeal or revocation, and such rights shall continue and may be enforced in like manner as if the said repeal or revocation had not been enacted or made.

APPENDIX II.

ARTICLES OF THE INTERNATIONAL COPYRIGHT UNION.

Final Act of the Second International Conference for the Protection of Literary and Artistic Works.

The Undersigned, Delegates of the Governments of Germany, Spain, France, Great Britain, Haiti, Honduras, Italy, the Netherlands, Sweden and Norway, Switzerland, and Tunis, empowered to take part in the second International Conference for the protection of literary and artistic works, which met at Berne the 7th September, 1885, having terminated their labours, submit to the Governments of the countries they represent the draft Convention, with additional Article and Final Protocol, of which the following is the text:—

I.—Convention concerning the creation of an International Union for the Protection of Literary and Artistic Works.

[Enumeration of the High Contracting Parties.]

being equally animated by the desire to protect effectively, and in as uniform a manner as possible, the rights of authors over their literary and artistic works,

Have resolved to conclude a Convention to that effect, and have named for their Plenipotentiaries, that is to say:—

Who, having communicated to each other their respective Full Powers, found in good and due form, have agreed upon the following Articles:—

ART. 1. The Contracting States are constituted into an Union for the protection of the rights of authors over their literary and artistic works.

ART. 2. Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.

The enjoyment of these rights is subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and cannot exceed in the other countries the term of protection granted in the said country of origin.

The country of origin of the work is that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them in which the shortest term of protection is granted by law.

For unpublished works the country to which the author belongs is considered the country of origin of the work.

ART. 3. The stipulations of the present Convention apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.

ART. 4. The expression "literary and artistic works" comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

ART. 5. Authors of any of the countries of the Union, or their legal representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union.

For works published in incomplete parts ("livraisons") the period of ten years commences from the date of publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for bulletins or collections ("cahiers") published by literary or scientific Societies, or by private persons, each volume, bulletin, or collection is, with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present Article, and for the calculation of the period of protection, the 31st December of the year in which the work was published is admitted as the date of publication.

ART. 6. Authorized translations are protected as original works. They consequently enjoy the protection stipulated in Articles II. and III. as regards their unauthorized reproduction in the countries of the Union.

It is understood that, in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

ART. 7. Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation, unless the authors or publishers have expressly forbidden it. For periodicals it is sufficient if the prohibition is made in a general manner at the beginning of each number of the periodical.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction of news of the day or *current topics*.

ART. 8. As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the matter is to be decided by the legislation of the different countries of the Union or by special arrangements existing or to be concluded between them.

ART. 9. The stipulations of Article 2 apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works, or their legal representatives, are, during the existence of their exclusive right of translation, equally protected against the unauthorized public representation of translations of their works.

The stipulations of Article 2 apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title-page or commencement of the work that he forbids the public performance.

ART. 10. Unauthorized indirect appropriations of a literary or artistic work, of various kinds such as *adaptations, arrangements of music, &c.*, are specially included amongst the illicit reproductions to which the present

Convention applies, when they are only the reproduction of a particular work, in the same form, or in another form, with non-essential alterations, additions, or abridgments, so made as not to confer the character of a new original work.

It is agreed that, in the application of the present Article, the Tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

ART. 11. In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the Courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the legal representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the Tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in Article 2.

ART. 12. Pirated works may be seized on importation into those countries of the Union where the original work enjoys legal protection.

The seizure shall take place conformably to the domestic law of each State.

ART. 13. It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

ART. 14. Under the reserves and conditions to be determined by common agreement,* the present Convention applies to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin.

ART. 15. It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other, provided always that such arrangements confer upon authors or their legal representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

ART. 16. An international office is established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works."

This office, of which the expenses will be borne by the Administrations of all the countries of the Union, is placed under the high authority of the Superior administration of the Swiss Confederation, and works under its direction. The functions of this Office are determined by common accord between the countries of the Union.

ART. 17. The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, will be considered in Conferences to be held successively in the countries of the Union by Delegates of the said countries.

It is understood that no alteration in the present Convention shall be

* See paragraph 4 of Final Protocol, p. 64.

binding on the Union except by the unanimous consent of the countries composing it.

ART. 18. Countries which have not become parties to the present Convention, and which grant by their domestic law the protection of rights secured by this Convention, shall be admitted to accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

ART. 19. Countries acceding to the present Convention shall also have the right to accede thereto at any time for their Colonies or foreign possessions.

They may do this either by a general declaration comprehending all their Colonies or possessions within the accession, or by specially naming those comprised therein, or by simply indicating those which are excluded.

ART. 20. The present Convention shall be put in force three months after the exchange of the ratifications, and shall remain in effect for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government authorised to receive accessions, and shall only be effective as regards the country making it, the Convention remaining in full force and effect for the other countries of the Union.

ART. 21. The present Convention shall be ratified, and the ratifications exchanged at _____, within the space of one year at the latest.

In witness whereof, &c.

Done at _____, the _____

II.—*Additional Article.* The Plenipotentiaries assembled to sign the Convention concerning the creation of an International Union for the protection of literary and artistic works have agreed upon the following Additional Article, which shall be ratified together with the Convention to which it relates :—

The Convention concluded this day in no wise affects the maintenance of existing Conventions between the Contracting States, provided always that such Conventions confer on authors, or their legal representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to the said Convention.

In witness whereof, &c.

Done at _____, the _____

III.—*Final Protocol.* In proceeding to the signature of the Convention concluded this day, the undersigned Plenipotentiaries have declared and stipulated as follows :—

1. As regards Article IV., it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded to-day, from the date of its coming into effect. They are, however, not bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorized photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.

2. As regards Article IX., it is agreed that those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works, expressly admit the former works to the benefits of the Convention concluded this day.

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective Tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright, shall not be considered as constituting an infringement of musical copyright.

4. The common agreement alluded to in Article XIV. of the Convention is established as follows :

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force, shall operate according to the stipulations on this head which may be contained in special Conventions either existing or to be concluded.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each for itself by its domestic legislation, the manner in which the principle contained in Article XIV. is to be applied.

5. The organization of the International Office established in virtue of Article XVI. of the Convention shall be fixed by a Regulation which will be drawn up by the Government of the Swiss Confederation.

The official language of the International Office will be French.

The International Office will collect all kinds of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will study questions of general utility likely to be of interest to the Union, and, by the aid of documents placed at its disposal by the different Administrations, will edit a periodical publication in the French language treating questions which concern the Union. The Governments of the countries of the Union reserve to themselves the faculty of authorizing, by common accord, the publication by the Office of an edition in one or more other languages if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union, with the view to furnish them with any special information they may require relative to the protection of literary and artistic works.

The Administration of the country where a Conference is about to be held, will prepare the programme of the Conference with the assistance of the International Office.

The Director of the International Office will attend the sittings of the Conferences, and will take part in the discussions without a deliberative voice. He will make an annual Report on his administration, which shall be communicated to all the members of the Union.

The expenses of the Office of the International Union shall be shared by the Contracting States. Unless a fresh arrangement be made, they cannot exceed a sum of 60,000 fr. a year. This sum may be increased by the decision of one of the Conferences provided for in Article XVII.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding States into six classes, each of which shall contribute in the proportion of a certain number of units, viz. :—

First Class	.	.	.	.	.	.	25 units.
Second „	.	.	.	.	.	.	20 „

Third Class	.	.	.	.	.	.	15 units.
Fourth „	.	.	.	.	.	.	10 „
Fifth „	.	.	.	.	.	.	5 „
Sixth „	.	.	.	.	.	.	3 „

The coefficients will be multiplied by the numbers of States of each class, and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unity of expense.

Each State will declare at the time of its accession, in which of the said classes it desires to be placed.

The Swiss Administration will prepare the Budget of the Office, superintend its expenditure, make the necessary advances, and draw up the annual account, which shall be communicated to all the other Administrations.

6. The next Conference shall be held at , in

7. It is agreed that, as regards the exchange of ratifications contemplated in Article-XXI, each Contracting Party shall give a single instrument, which shall be deposited, with those of the other States, in the Government archives of the Swiss Confederation. Each party shall receive in exchange a copy of the *proces-verbal* of the exchange of ratifications, signed by the Plenipotentiaries present.

The present Final Protocol, which shall be ratified with the Convention concluded this day, shall be considered as forming an integral part of the said Convention, and shall have the same force, effect, and duration.

In witness whereof, &c.

Done at , the

The undersigned Delegates request the Swiss Federal Council to be so good as to take the necessary steps to invite the Governments represented at the Conference to transform the above project into a definitive Convention, at a diplomatic Conference to be held within the delay of one year.

They further suggest that the project should, with the same object, be also communicated by the Swiss Federal Council to the Governments of the countries not represented at the Conference.

In witness whereof, the respective Delegates have drawn up the present final *proces-verbal*, and have affixed thereto their signatures.

Done at Berne, the 18th September, 1885, in a single instrument, which shall be deposited in the archives of the Swiss Confederation.

(Signed)

REICHARDT.

MEYER.

DAMBACH.

COMTE DE LA ALMINA.

MANUEL TAMAYO Y BAUS.

EMM. ARAGO.

LOUIS ULBACH.

RENE LAVOLLEE.

L. RENAULT.

F. O. ADAMS.

J. H. G. BERGNE.

LOUIS JOSEPH JANVIER.

WEDER.

FE.

A. ENRICO ROSMINI.

REMIGIO TRINCHELLI.

B. L. VERWEY.

ALF. LAGERHEIM.

F. BETZMANN.

L. RUCHONNET.

DROZ.

A. D'OSELLI.

L. RENAULT.

APPENDIX III.

A BILL TO CONSOLIDATE AND AMEND THE LAW
RELATING TO COPYRIGHT.

A.D. 188

WHEREAS it is desirable to amend and consolidate the law of copyright : and whereas the Commissioners lately appointed by Her Majesty to inquire with regard to the laws and regulations relating to copyright, have by their report to Her Majesty made various recommendations, which, with certain exceptions, it is expedient to carry into effect :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by authority of the same, as follows :

Preliminary.

- Short title. 1. This Act may be cited as The Copyright Act, 188 .
- Extent of Act. 2. This Act shall extend to the whole of the British dominions.
- Commence-ment of Act. 3. This Act shall be proclaimed in every British possession by the governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in every part of Her Majesty's dominions on the first day of January, one thousand eight hundred and eighty- , which day is in this Act referred to as the commencement of this Act.

Definitions.

Definitions.

4. In the construction of this Act

PERSON shall mean any person, whether a British subject or an alien.

BOOK shall mean any volume, or part of a volume, or pamphlet, and include the illustrations therein ; or sheet of letterpress, illustrated or otherwise ; sheet, or collection of sheets, of music ; map, or chart, or plan, separately published. Book shall also mean and include a collective book and a periodical, but shall not include the advertisements or news in a newspaper.

PERIODICAL shall mean a magazine, review, newspaper, except the news or advertisements therein, or any other similar book published in parts, and include the illustrations therein ; but shall not mean an encyclopædia or a dictionary.

COLLECTIVE BOOK shall mean an encyclopædia or dictionary or book of which more than one person is the author, and include the illustrations therein ; and the editor whose name stands first or alone on the title-page or cover of the last part of the first edition of such a book, shall for the purposes of this Act be deemed the author thereof.

ANONYMOUS WORK shall mean a work not published with the author's, inventor's, designer's, or maker's true name attached to it, or not registered in his true name during that author's lifetime.

POSTHUMOUS WORK shall mean a work, anonymous or otherwise, first published after the death of the author, inventor, designer, or maker.

DRAMATIC PIECE shall mean a tragedy, comedy, play, opera, farce, or any other scenic, musical, or dramatic composition.

WORK OF FINE ART shall mean a painting, drawing, piece of statuary or sculpture, an original engraving, etching, or pictorial design ; or an engraving, etching, lithograph, or photographic negative of a pictorial illustration, or of any work connected with the fine arts ; also any similar work produced by any other process ; also any print therefrom ; also a model, or copy or cast, or a sketch or design intended to be perfected as a work of fine art.

WORK shall mean and include a book, periodical, collective book, anonymous or posthumous work, dramatic piece, a work of fine art, lecture, sermon, and anything that is the subject of copyright under this Act.

FIRST PUBLICATION shall mean either

The first act of offering to the public gratuitously or for sale ;
or first public performance ;
or first public exposure for reward or payment to the owner of the copyright.

PUBLIC PERFORMANCE shall mean delivery or performance in a place to which admittance is obtained by the public by payment or subscription, or gratuitous delivery to the public, or delivery or performance for hire.

Copyright on and after Publication.

<p>5. Any person who shall be the author, inventor, designer, or maker of any book ; any lecture or sermon ; any dramatic piece ; or any work of fine art ; or his lawful representatives or assigns, shall have the sole right To print, reprint, model, draw, paint, engrave, photograph, or otherwise copy from the model, cast, engrave, photograph, or multiply copies, in any size, in whole or in part, by any means whatsoever ; to translate, dramatise, or abridge ; to publish, import, expose publicly or for sale, or sell ; to deliver, perform publicly, or permit, or cause to be so delivered or performed by others ; and to reduce the score, to arrange and to adapt the air or melody of any dramatic piece or musical composition for other purposes than that to which it was first applied by the author.</p>	<p>Who shall be entitled to copyright.</p> <p>Nature of copyright.</p>
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and this right shall be termed copyright.

<p>6. Copyright shall last and endure from the first publication of the work for the life of the author, inventor, designer, or maker, and until thirty years after the end of the year in which he died ;</p>	<p>Duration of copyright.</p>
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<p>Except that in the case of a posthumous or anonymous work, an anonymous article in a periodical not subsequently republished in any other form, an engraving, etching, lithograph, or any similar work produced by any other process, or any print therefrom, which does not form part of a book, this right shall only last for the remainder of the year in which it is first published, and thirty years afterwards, and in the case of an anonymous collective book for the year in which its publication is completed, and thirty years afterwards ;</p>	<p>Exceptions.</p>
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Except also that the right of republication in a separate form shall revert to the author of any article sold only for publication in a periodical after three years from the first publication thereof.

Except also that the proprietor of any periodical or collective book shall not have the right to publish in a separate form any article bought for publication therein only, without the written consent of the author ;

Except also that the copyright in a photograph which does not form part

of a book, by being first published as an illustration therein and thereof, shall only last for the remainder of the year in which it is published and five years afterwards.

Place of publication.

7. No person shall be entitled by this Act to copyright in any work other than a dramatic piece, lecture, or sermon, unless it is first published in the British dominions; nor in any dramatic piece, lecture, or sermon, unless it is published or publicly performed therein within one year of its first publication elsewhere.

Owner of copyright in a work of fine art, &c.

8. The copyright in any work of fine art shall pass to the purchaser of the work unless reserved to the author, inventor, designer, or maker thereof by note or memorandum in writing.

8.* In the case of a portrait painted, drawn, or sculptured on commission, or an engraving, or an etching, or a lithograph, or a photographic negative, or any similar work, or a book, periodical, or collective book, or any part thereof, made or executed or written on commission, the purchaser for whom such commissioned work has been executed shall for the purposes of this Act be deemed the original owner of the copyright therein.

9. This Act shall not confer copyright in immoral, seditious, libellous, or blasphemous works.

Registration.

Appointment of Registrar.

Register and deposit of copies.

Registrar to give receipt and to send copies to libraries.

Registration of paintings, &c.

Registration of dramatic pieces.

Registration of periodicals.

10. It shall be the duty of the Registrar of Designs and Trade Marks to keep a register of works in which copyright exists.

11. The copyright owner of a book, a printed dramatic piece, or any second or subsequent edition thereof containing additions or alterations, or of a part of a book, first published in the United Kingdom, shall within one month of publication or of becoming owner thereof, if the work has not previously been registered, deliver to the said Registrar five copies thereof; and of an engraving, etching, lithographic or photographic or similar print so published, one copy thereof; and such particulars concerning the work as the Registrar shall require, and shall pay him a fee of one shilling and no more.

12. The Registrar shall upon delivery thereof at any time make in the register a memorandum of the receipt of the work to be registered, and of the title, date of publication, name and address of the owner thereof, and deliver a certified copy of such memorandum to the person registering the same, and within one month thereafter shall send one copy of the work registered, if a book or printed dramatic piece, or a print from an engraving, lithograph, etching, or photographic negative, or similar print, to the British Museum, and also, at the expense of these respective institutions, one copy of every book or printed dramatic piece thus registered to the Bodleian Library at Oxford, one to the Public Library at Cambridge, one to the Library of the Faculty of Advocates, Edinburgh, and one to the Library of Trinity College, Dublin.

13. Paintings, drawings, sculpture, or any similar work of fine art must be registered in the manner required by the Registrar, by the transferee within one month after the copyright therein becomes vested in some other person than the owner of the work itself, but a copy of the work need not be delivered to the Registrar for this purpose.

14. Within one month of the first sale or first public performance of any dramatic piece in the United Kingdom, the copyright owner shall register it in the manner required by the Registrar, if not already registered as a book, at the office of the Registrar of Copyrights.

15. It shall not be necessary to pay more than one fee of one shilling for registering a periodical or collective book, but five copies of every part of it,

published after the commencement of this Act, if published within the United Kingdom, must be delivered by the copyright owner within one month of publication to the Registrar, who shall thereupon give a receipt for the same.

16. Any copyright owner may also re-register in his own name at any time any work on payment of one shilling, and delivery where required by this Act of five copies or of one copy of the work to be registered to the Registrar. Re-registration.

17. Any copyright owner may at any time require from the Registrar an additional Certified Copy of the Registrar's memorandum of receipt on payment of a fee of five shillings. Certified copy of receipt.

18. A certified copy of the Registrar's memorandum of receipt shall be *prima facie* evidence of the first publication and due registration of the work, and of the title to the copyright therein. Registrar's receipt *prima facie* evidence.

19. No owner of the copyright of a work first published in the United Kingdom shall be entitled to take or maintain any proceedings, or to recover any penalty in respect of any infringement of his copyright, until it has been registered, if required by this Act. No proceedings till after registration.

20. The penalty for not registering or not registering and depositing copies in compliance with this Act shall not be less than *forty shillings* nor more than *twenty pounds*, and may be recovered on summary conviction, in manner provided by the Summary Jurisdiction Act, but no copyright owner shall be liable for default of registration by any preceding owner. Penalties for not registering.

21. The Registrar shall also keep a register of transfers of ownership of copyright, and any copyright owner may, after the copyright is registered, have the transfer thereof registered therein on payment of a fee of five shillings; and may also require from the Registrar a Certificate of Ownership thereof on payment of a further fee of five shillings, and such certificate shall be *prima facie* evidence of the ownership of the said work. Registration of transfers.

22. Wilfully making a false entry, or causing one to be made in the Register of Copyrights or Register of Transfers, shall be a misdemeanour, and be punishable accordingly. False entry.

23. No owner of an engraving, etching, photograph, or lithograph published separately, or of any model, cast or copy of any sculpture, or any similar work, shall have copyright therein unless every published copy thereof has on it the word "registered," and the name and address of the inventor, designer, or maker, or proprietor thereof, and the year of its first publication. Each copy of an engraving, &c. to have the word "registered," &c. on it.

24. No owner of a lithographic or photographic negative or similar work need deposit or register it unless he desires to maintain his copyright therein. Non-compliance with the terms of registration prescribed by this Act, in the case of such lithographic or photographic negative or similar work, shall be deemed a ceding to the public of the copyright thereof. Registration of lithographs and photographs.

25. The forms of registration required by this Act shall be prescribed by the Board of Trade.

Penalties.

26. Any person who infringes copyright or any of the rights given by this Act in any work Penalties.

by printing; or by modelling, drawing, painting, engraving, photographing or otherwise copying from a model; or by casting, engraving, photographing, or repeating; or by multiplying copies of it in any size in whole or in part by any means whatsoever;

or by publishing or importing, or by selling, or exposing publicly or for sale, or letting for hire any copy thereof, or any colourable imitation thereof, or copy with alterations or additions thereto not authorised by the original copyright owner, knowing that the said copy or colour-

able imitation is imported or made without the consent of the owner ; or by wilfully importing into the United Kingdom copyright books reproduced in any British possession under arrangement with the copyright owner without the said owner's sanction in writing, after due notice of the existence of the copyright therein has been given to Her Majesty's Customs under the Customs Consolidation Act, 1876 ;

or by translating, dramatizing, or abridging it ;

or by making extracts therefrom in such a manner as to inflict loss on the owner of the copyright ;

or by reducing the score, or by arranging or adapting the air or melody of any dramatic piece for other purposes than that to which it was first applied by the author ;

or by delivering or publicly performing it (except in the case of songs) ;

or by causing any of these acts to be done, may be restrained by injunction or otherwise as the Court may think fit, and shall forfeit to the owner of the copyright all plates, whether of steel, copper, zinc, stereotype, or electrotype, or of other material, or illustrations whether on wood, or steel, or copper, or stone or zinc, or of any other kind, and all casts therefrom or fac-similes thereof, and all materials specially belonging to the said copyright work, and all copies of works or parts of works in his possession or control, and also be liable for such damages, not less than £50, as the Court may award.

Penalties
for selling
copies, &c.

27. Any person who infringes copyright in any work by selling it, or exposing it publicly or for sale, or letting it for hire, or in the case of a song reserved by notice by publicly performing it, shall be restrained by injunction or otherwise as the Court may think fit, and shall also forfeit all copies in his possession or control to the owner of the copyright, and shall be liable for such damages as the Court may award ; but no copyright owner shall have the right to sue for any penalty for public performance of any song first published after the commencement of this Act, unless he shall print, or cause to be printed, upon the title-page of every published copy thereof a notice that the right of public performance is reserved.

Fraudu-
lently
representing
any work of
fine art.

28. Any person fraudulently representing any work of fine art to be wholly or in part the work of a person who is not its author, inventor, designer, or maker, in any way by which such representation can be conveyed, or knowingly selling, publishing, or exhibiting such a work, may be restrained by injunction or otherwise, as the Court may think fit, and shall upon conviction forfeit to the person aggrieved such a sum, not exceeding £10, as the Court may award, and all fraudulent copies of the said work in his possession or control.

Penalties for
hawking,
&c., unlaw-
ful copies.

29. If any person elsewhere than at his own house, shop, or place of business shall hawk, carry about, offer, or keep for sale or hire any unlawful copy, repetition, or imitation of any work, wherein there is copyright under this Act, every such unlawful copy, repetition, or imitation may be seized without warrant by the owner of the copyright, or by any peace officer or other person authorised by him in writing, and forthwith taken before any person having jurisdiction under the Summary Jurisdiction Act, and upon proof that such copy, repetition, or imitation was unlawfully made, it shall be forfeited and delivered up to the owner of the copyright as his property.

Recovery
of fines or
damages.

30. Fines or damages incurred under this Act may be recovered on summary conviction, in manner provided by the Summary Jurisdiction Act, if the amount does not exceed fifty pounds, or by action for any amount whatsoever.

Limitation
of action.

31. No action or summary proceedings for infringement of this Act shall be commenced after two years from the arising of the cause of action.

Miscellaneous.

32. Copyright shall be deemed personal property and be capable of assignment or transmission by bequest or operation of law.

Copyright personal property.

33. No right, interest, or remedy acquired under any other Act, or Treaty, or Order in Council, shall be taken away by this Act in the case of works published before the passing of this Act, notwithstanding the repeal of the Act giving such right, interest, or remedy, except that the owner of the copyright of any song published before the passing of this Act shall only recover the value of any actual damage or loss he may have sustained from its unlawful performance.

No right, &c., taken away by this Act, except of songs, &c.

34. The copyright subsisting in works published before the commencement of this Act shall endure for the term limited by the enactments existing before the passing of this Act, or for the term fixed by this Act, whichever is the longer, and the copyright owner shall for any extension of copyright under this Act be entitled to all the rights and remedies given by this Act; but when the copyright owner is an assignee for other consideration than natural love and affection, he must, to obtain the benefits of any extension of copyright under this Act, get the consent in writing before the expiration of the original term of copyright of the author, inventor, designer, or maker, or his personal representatives, to accept the provisions of this Act, and must register the said consent at the office of the registrar of copyrights, in the manner required by the registrar, within one month of obtaining the same.

Extension of copyright to works published before the passing of this Act.

35. The author of any article in a periodical shall at all times have the same right as the owner of the periodical to prevent its unauthorized republication.

Author of an article may sue on infringement

36. Any one of the rights of copyright acquired under this Act may be assigned or transmitted separately and its transfer registered, and the owner of such right may sue for infringement thereof as if he were the owner of the entire copyright conferred by this Act.

Rights may be assigned, &c., separately.

Copyright in the British Possessions.

37. If by any law or ordinance made after the commencement of this Act by the Legislature of any British possession satisfactory provision, with suitable penalties, is made for carrying clauses 5 to 7 of this Act, or any modification thereof satisfactory to Her Majesty, into effect within such possession, Her Majesty may by Order in Council suspend the operation within such British possession of this Act, or of any part thereof.

British possessions may legislate.

38. All rights and remedies to which a person may be entitled in any British possession under this Act shall be in addition to, and not in derogation of, any rights or remedies to which he may be entitled under the law of that possession.

Remedies under this Act.

International Copyright.

39. After the commencement of this Act, no Order in Council shall be made under the powers conferred upon Her Majesty by "The International Copyright Act," passed in the seventh year of her reign (7 Vict. c. 12), and by "An Act to extend and explain the International Copyright Acts," passed in the fifteenth and sixteenth years of Her Majesty's reign (15 & 16 Vict. c. 12), except to revoke any Orders in Council made under the aforesaid Acts, and no order so issued shall affect any right, interest, or remedy acquired before its issue.

No further orders to be made except to revoke existing orders.

Order in Council may grant copy-right to foreign works.

40. It shall be lawful for Her Majesty by Order in Council to assent to or join in any copyright treaty or convention with any Foreign State or States, or to direct that any work and any translation of any book or dramatic piece published and having copyright in any Foreign State or States named in the said Order, shall have copyright in the British Dominions or any part thereof as defined in such Order, but not for a term exceeding the term of copyright granted under this Act to any work copyright under it throughout the British dominions, and also to revoke any such Order, but only in such a manner as not to affect any right, interest, or remedy acquired before such revocation;

Provided that Her Majesty shall, by treaty, convention, or otherwise, have secured in the said Foreign State or States, or be satisfied that due provision has been made by the said State or States for securing, such copyright for all or any works or translations of books possessing copyright under this Act as may appear satisfactory to Her Majesty.

Publication of Order in Council in Great Britain.

41. Any Order in Council made under this Act shall be forthwith published in the *London Gazette*, and shall after such publication be deemed to have been duly made, and shall also be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament is not then sitting, within six weeks after the commencement of the next session of Parliament.

Publication of ditto in British Possessions.

42. A copy of every Order in Council made under this Act shall be forwarded as soon as may be after it is made to the Governor of every British Possession, and be duly published by him in the manner usual for the publication of Orders in Council in such possession.

Protection on Order being made.

43. On such an Order in Council being made, the protection remedies and penalties for infringement of such copyright afforded and imposed by Sections and of this Act, shall apply to every such work or translation of a book as if it had been first published within the British Dominions.

Repeal of Statutes.

Repeal of Statutes.

44. The Acts specified in the following Schedule are hereby repealed as from the commencement of this Act: 8 Geo. 2, c. 13; 7 Geo. 3, c. 38; 15 Geo. 3, c. 53; 17 Geo. 3, c. 57; 54 Geo. 3, c. 56; 3 Will. 4, c. 15; 5 & 6 Will. 4, c. 65; 6 & 7 Will. 4, c. 59; 5 & 6 Vict. c. 45; 7 Vict. c. 12; 15 & 16 Vict. c. 12; 25 & 26 Vict. c. 68; 38 Vict. c. 12; 45 & 46 Vict. c. 40.

APPENDIX IV.

Abridgment of Books.—The Commissioners recommend that “no abridgment of copyright works should be allowed during the term of copyright, without the consent of the owner of the copyright.”

Immoral, Irreligious, Seditious, and Libellous Works.—The Commissioners say, “The subject really belongs more properly to the Criminal Law than to the law relating to copyright, and therefore do not make any suggestions with regard to it.”

The present law is—

No copyright can exist in anything in which copyright would otherwise exist if it is immoral, irreligious, seditious, or libellous, or if it professes to be what it is not, in such a manner as to be a fraud upon the purchasers thereof.

Lectures.—The Commissioners “think that the author’s copyright should extend to prevent re-delivery of a lecture without leave as well as publication by printing, though this prohibition as to re-delivery should not extend to lectures which have been printed and published.” They also “recommend that the term of copyright in lectures should be the same as in books, namely, the life of the author, and thirty years after his death.” Publication in newspapers is allowed, but the author’s copyright is not to be prejudiced thereby, and the author to have control so as to prevent such publication if he wishes to do so. He will be presumed to give such permission unless, “before or at the time when the lecture is delivered, he gives notice that he prohibits reporting.”

The present law is—

The author of any lecture, or his assign, has by statute the sole right of publishing any lecture, of the delivery of which notice in writing has been given to two justices living within five miles from the place where such lecture is delivered two days at least before it is delivered, unless such lecture is delivered in any university, public school, or college, or on any public foundation, or by any person in virtue of or according to any gift, endowment, or foundation.

The author of any lecture has [probably] at common law the same right as by statute, without giving such notice as is required by statute, but he cannot recover the penalties provided by the Act and specified in Article 35, for an infringement of his copyright. The penalty for pirating is forfeiture of all copies printed and one penny for every copy thereof found in the pirate’s custody.—See also New Bill, Appendix III.

Newspapers.—It is suggested that in any future legislation, conflicting legal decisions “may be remedied by defining what parts of a newspaper may be considered copyright, by distinguishing between announcements of facts and communications of a literary character.”

Fine Arts.—It is proposed “that the term of copyright for all works of Fine Art, other than photographs, shall be the same as for books, music, and the drama, viz., life of the artist, and thirty years after his death.”

Sculpture.—The Commissioners “are disposed to think that every form of copy, whether by sculpture, modelling, photography, drawing, engraving, or otherwise, should be included in the protection of copyright.”

The present law is—

Every person who makes or causes to be made any new and original sculpture, or model, or copy, or cast, . . . has the sole right therein for the term of fourteen years from first putting forth or publishing the same, provided that the proprietor causes his name, with the date, to be put on every such thing before it is published. If the proprietor be living at the end of the term of fourteen years, his right returns to him for a further term of fourteen years, unless he has divested himself thereof.

Paintings.—The majority of the Commissioners “have arrived at the conclusion, that in the absence of a written agreement to the contrary, the copyright in a picture should belong to the purchaser, or the person for whom it is painted, and follow the ownership of the picture.”

. The Royal Academicians have issued their views, and the controversy is limited to a question of registration, which, looked at practically, is of small importance. The Academicians wish that the copyright should remain with the artist—unless there be an agreement to the contrary.

Photographs.—It is proposed “that the term of copyright should be thirty years from the date of publication; except when originally published as part of a book. In the latter case it should be for the term of copyright in the book.” It is further suggested “that the copyright in a photograph should belong to the proprietor of the negative, but, in the case of photographs taken on commission, it is recommended that no copies be allowed to be sold or exhibited without the sanction of the person who ordered them.”

The present law is:—

Paintings and Photographs.

The author, being a British subject or resident within the dominions of Her Majesty, of any original painting, drawing, or photograph, not having been sold before the 29th July, 1862, has the sole and exclusive right of copying, engraving, reproducing, and multiplying such painting or drawing, and the design thereof, or such photograph and the negative thereof, by any means or of any size, whether made in the Queen's dominions or not, for the term of his life and seven years after his death, but this right does not affect the right of any other person to represent any scene or object represented by any such painting.

If any painting or drawing, or the negative of any photograph, hereinbefore mentioned, is made by the author for or on behalf of any other person for a good or valuable consideration, such person is entitled to copyright therein.

If any such thing is, after the 29th July, 1862, for any such consideration transferred for the first time by the owner to any other person, the owner may, by an agreement in writing signed at or before the time of such transfer by the transferee, reserve the copyright to himself, or he may transfer the copyright to such transferee. Otherwise the copyright ceases.

Registration of Copyright in Paintings, &c.

A book entitled the Register of Proprietors of Copyright in Paintings, Drawings, and Photographs, must be kept at the Hall of the Stationers' Company.

A memorandum of every copyright to which any person is entitled under Article 21, and of every subsequent assignment of any such copyright, must be entered therein; such memorandum must contain a statement of

(a.) *The date of such agreement or assignment;*

- (b.) *The names of the parties thereto ;*
- (c.) *The name and place of abode of the person in whom such copyright is vested by virtue thereof, and of the author of the work ;*
- (d.) *A short description of the nature and subject of such work, and, if the person registering so desires, a sketch, outline, or photograph of the work in addition thereto.*

No proprietor of any such copyright is entitled to the benefit of 25 & 26 Vict. c. 68 until such registration, and no action can be maintained, nor any penalty be recovered, in respect of anything done before registration ; but it is not essential to the validity of a registered assignment that previous assignments should be registered.

Architecture.—The Commissioners are of opinion “that it would be impracticable to reserve the right to reproduce a building, but they consider that architectural designs are protected, as drawings, by the Fine Arts Act (25 & 26 Vict.), so that they may not be copied on paper, and they think that such protection should be preserved.”

(See also Bill now before Parliament [1887], clauses 26 to 31.)

The following colonies have placed themselves within the provisions of the Foreign Reprints Act of 1847 (10 & 11 Vict. c. 95):—

Canada, December 12, 1850.
 St. Vincent, August 13, 1852.
 Jamaica, December 29, and June 25, 1857.
 Mauritius, April 1, 1853.
 Nevis, Grenada, Newfoundland, July 30, 1849.
 St. Christopher, November 6, 1849.
 St. Lucia, November 13, 1850.
 New Brunswick, August 11, 1848.
 St. Kitts, British Guiana, October 23, 1851.
 Prince Edward's Island, October 31, 1848.
 Barbadoes, December 16, 1848.
 Bermuda, February 13, 1849.
 The Bahamas, May 21, 1849.
 Cape of Good Hope, March 10, 1851.
 Nova Scotia, August 11, 1848.
 Antigua, June 19, 1850.
 Natal, May 16, 1857.

GREAT BRITAIN has concluded International Conventions with France, registration and delivery of copies within three months; Prussia, Saxony, Saxe-Weimar, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Brunswick, Schwarzburg-Rudelsstadt, Schwarzburg-Sondershausen, Reuss (all in 1846), registration and delivery of copies being required within twelve months after the first publication of the work in any of those dominions; Thuringia (1847), same time for registration and delivery; Hanover (1847), same time for registration and delivery; Oldenburg (1847), same time for registration and delivery; Anhalt (1853), same time for registration and delivery; Hamburg (1853), registration and delivery being required within three months after publication; Belgium (1855), same time for registration and delivery; Spain, same time for registration and delivery; Sardinia (Italy), same time for registration and delivery; Hesse-Darmstadt (1862), registration and delivery to be made within twelve months.

The above Conventions must now be taken in connection with the International and Colonial Copyright Act, 1886.

APPENDIX V.

MILTON'S AGREEMENT FOR THE PUBLICATION
OF "PARADISE LOST."

"The following is the agreement between Milton and Simmons in the matter of 'Paradise Lost.' There were of course two copies of the agreement, and it is the copy signed for Milton by proxy and kept by Simmons that has been preserved":—

These presents, made the 27th day of Aprill, 1667, Betweene John Milton, gent., of thone p̄tie, and Samuel Symons, Printer, of thother p̄tie, Wittness:— That the said John Milton, in consideration of five pounds to him now paid by the said Sam^l. Symons and other the consideration herein mentioned hath given, granted, and assigned, and by these p̄nts doth give, grant, and assigne, unto the said Sam^l. Symons, his executors and assignes, All that Booke, Copy, or Manuscript of a Poem intituled Paradise lost, or by whatsoever other title or name the same is or shalbe called or distinguished, now lately Licensed to be printed, Together with the full benefitt, proffitt, and advantage thereof, or wh. shall or may arise thereby.

And the said John Milton, for him, his ex^{ts}. and ad^s. doth covenant with the said Sam^l. Symons, his ex^{ts}. and ass^s.; That hee and they shall at all tymes hereafter have, hold, and enjoy the same, and all Impressions thereof accordingly, without the lett or hinderance of him, the said John Milton, his ex^{ts}. or ass^s. or any p̄son or p̄sons by his or their consent or privitie, And that the said Jo. Milton, his ex^{ts}. or ad^s. or any other by his or their meanes or consent, shall not print or cause to be printed or sell, dispose, or publish, the said Booke or Manuscript, or any other Booke or Manuscript of the same tenor or subject without the consent of the said Sam^l. Symons, his ex^{ts}. and ass^s. In consideration whereof, the said Sam^l. Symons for him, his ex^{ts}. and ad^s. doth covenant with the said John Milton, his ex^{ts}. and ass^s. well and truly to pay unto the said John Milton, his ex^{ts}. and ad^s. the sum of five pounds of lawfull English money at the end of the first Impression which the said Sam^l. Symons, his ex^{ts}. or ass^s. shall make and publish of the said Copy or Manuscript; Which impression shalbe accounted to be ended when thirteene hundred Books of the said whole Copy or Manuscript imprinted shalbe sold and retailed off to p̄ticular reading Customers: And shall also pay other five pounds unto the said M^r. Milton, or his ass^s. at the end of the second Impression, to be accounted as aforesaid, And five pounds more at the end of the third Impression to be in like manner accounted; And that the said three first Impressions shall not exceed fiftene hundred Books or Volumes of the said whole Copy or Manuscript a peice; And further, That he the said Samuel Symons, and his ex^{ts}, ad^s, and ass^s, shalbe ready to make oath before a Master in Chancery concerning his or their knowledge and beleife of or concerning the truth of the disposing and selling the said Books by Retail, as aforesaid whereby the said M^r. Milton is to be intituled to his said money from time to time, upon every reasonable request in that behalfe, or in default thereof shall pay the said five pounds agreed to be paid upon each Impression, as aforesaid as if the same were due, and for and in lieu thereof. In wittness

whereof the said pties have to this writing indented interchangeably sett their hands and seales, the day and yeare first abovewritten.

JOHN MILTON.

Sealed and delivered in the
presence of us,

JOHN FISHER,

BENIAMIN GREENE. serv^t to M^r. Milton.

—*Masson's Life of John Milton*, Vol. VI., p. 509. 1880.



"Before the end of April, 1669, the first edition of 'Paradise Lost' had been exhausted. The proof exists in the following receipt, the signature to which was of course by proxy":—

"April 26, 1669.

"Received then of Samuel Simmons five pounds, being the Second five pounds to be paid mentioned in the Covenant. I say recd. by me

JOHN MILTON.

"Witness, EDMUND UPTON."

—*Masson's Life of John Milton*, Vol. VI., p. 628.

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87-100
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FROM THE LIBRARY

OF

RAMON DE DALMAU Y DE OLIVART
MARQUÉS DE OLIVART

RECEIVED DECEMBER 31, 1911

